

**GAZETTE EXTRAORDINARY**

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1

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**MALAWI GOVERNMENT**

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**(Published 31st March, 2022)**

**Act**

**No. 4 of 2022**

I assent

DR. LAZARUS McCARTHY CHAKWERA  
PRESIDENT  
31st March, 2022

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An Act to provide for the legal and institutional framework for public finance management within an economic and fiscal policy framework; the preparation and implementation of the national budget; the strengthening of transparency, accountability and responsible management and control of public resources; the responsibilities of controlling officers, officers and public bodies in public finance management; cash and debt management systems; the efficient, effective and economic recognition and accounting for and reporting of, public resources and the financial position of the Government; the management and control of public assets and stores; the establishment and management of the Debt Retirement Fund; the repeal of the Public Finance Management Act (Cap. 37:02); and matters incidental thereto

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Public Finance Management Act, 2022, and shall come into force on 1<sup>st</sup> April, 2022.

Short title and  
commencement

2.—In this Act unless the context otherwise requires—

Interpretation

“appropriation Act” means an Act of Parliament the principal purpose of which is the application of public money for such goods and services as are specified in the Act;

Cap. 44:01 “bank” has the meaning assigned thereto, by the Banking Act and includes an international financial institution;

“chief executive officer” means the head, however titled, of a state-owned enterprise or an entity established by statute;

“Consolidated Fund” means the Consolidated Fund established by section 172 of the Constitution;

“controlling officer” means a person who is—

(a) the head or principal officer in-charge of a Ministry, department or any Government agency; or

(b) charged with a duty to, or actually collect, receive, disburse or deal, in any way, with public money or charged with the purchase, receipt, custody, or disposal of, or the accounting for, public resources or public securities;

“Estimates” means the statement of proposed public revenue and expenditure in any financial year as approved by the National Assembly through the enactment of an Appropriation Act;

Cap 44: 05 “financial institution” has the meaning assigned thereto by the Financial Services Act;

“financial statements” means the financial statements required under Part XI and the Fourth Schedule;

“financial year” means a period of twelve months beginning on 1st April and ending on 31st March;

“fiscal risk” means a factor that may cause fiscal outcomes to negatively deviate from forecast;

“generally accepted accounting practices” means—

(a) standards and practices promulgated by the International Federation of Accountants as applicable to Governments and statutory bodies; or

(b) where no standard, principle or practice exists, then accounting standards, principles or practices which have the authoritative support of the accounting profession in Malawi or in countries that maintain accounts and records and prepare financial statements similar to the Government of Malawi and its statutory bodies;

“Government” means all the three branches of Government;

“Government agency” or “agency” means an office, entity or instrument of the Government, other than a Ministry or statutory body;

“holding account” means an account maintained by a public body at the Reserve Bank of Malawi, used solely for the purpose of receiving and holding public money;

“imprestee” means a person in whose custody public money is placed for expenditure;

“internal control” means the whole system of controls, financial, administrative or otherwise established by Government in order to carry out Government business in an orderly, effective and efficient manner to achieve Government objectives;

“officer” means an employee of the Public Service of Malawi and includes an officer on permanent and pensionable contract and an officer on fixed term contract;

“operating account” means an account maintained by a public body at a commercial bank, used solely for expenditure, which is linked to the holding account held by the public body at the Reserve Bank of Malawi;

“outputs” means the goods and services that are produced by a Ministry, department, agency or any other body which receives an appropriation;

“over-commitment” means entering into a contract or other financial obligation that cause the funded budget to be exceeded;

“public asset” means any property, real, tangible or intangible, including shares and proprietary rights, owned by the Government or any public body;

“public body” means any organ or agency of the Government and includes a local authority, statutory body, state-owned enterprise and such other body as may be defined as such by law;

“public debt” means all financial liabilities created as a result of borrowing by the public sector, including called contingent liabilities and all outstanding liabilities created by the issuance of public securities;

“public funds” means the Consolidated Fund, the Contingency Fund and any other fund established by or under an Act of Parliament;

“public interest” means something that is to the advantage, direct or indirect, of the people of Malawi;

“public money” includes—

(a) all money, other than trust money, received by the Government or a public body, including revenue, donation, grant, loan and other moneys;

(b) money raised by any person or body under statutory authority;

(c) all bonds, debentures, and any other securities received by, or on account of, or payable to, or belonging to, or deposited with the Government by—

(i) any officer of the Government in his official capacity; or

(ii) any person on behalf of the Government;

“public resources” include public money, asset, property, stores and investment that belong to, or is held by or on behalf of the Government or a public body;

Cap. 46:06

“public securities” means securities as defined under the Securities Act representing the investment of, or securing the payment of, public money;

“records” means information recorded and kept by any means, and includes all books, accounts, rolls, files, vouchers, receipts, cheques, records, registers, papers and other documents relating to accounting operations and practice, kept or maintained in electronic or any other format used to maintain or store information;

“revenue” means all non-repayable receipts;

“Secretary to the Treasury” means the Secretary to the Treasury appointed under section 8;

“state-owned enterprise” means a body corporation, or subsidiary of a corporation where the Government, directly or indirectly—

(a) has controlling interest or power;

(b) controls the composition of the board of directors;

(c) has more than fifty per cent of the voting power; or

(d) holds more than fifty per cent of the issued share capital either directly or through another agency or statutory body;

“statutory body” means—

(a) a body of persons, whether corporate or unincorporated, other than the Reserve Bank of Malawi, established by any written law; and

(b) a local authority established under the Local Government Act;	Cap. 22:01
“statutory expenditure” means—	
(a) expenditure charged on the Consolidated Fund under the Constitution or charged on the Consolidated Fund or any other public fund or account by any other written law in which it is expressly stated to be statutory expenditure; and	
(b) expenditure which is not subject to the vote of the National Assembly;	
“Treasury Instructions” means Treasury Instructions issued under section 116;	
“trust account” means a trust account established under section 56;	
“Trust Fund” means a Trust Fund established under section 56; and	
“vote” means a placement of charge authorized under section 35(2) on which revenues and expenditure are incurred.	
3.—The purpose of this Act is to provide a framework for effective, transparent and responsible public finance management within an economic and fiscal framework in Malawi.	Purpose of the Act
4.—(1) This Act shall apply to Government, statutory bodies and state-owned enterprises.	Application
(2) Subject to the Constitution, where there is any inconsistency between the provisions of this Act and the provisions of any other law relating to management of public resources, the provisions of this Act shall prevail to the extent of the inconsistency.	
<b>PART II—MANAGEMENT OF PUBLIC RESOURCES</b>	
5.—(1) There is established the Treasury which shall comprise the—	Establishment of the Treasury
(a) Minister;	
(b) Secretary to the Treasury; and	
(c) Accountant General.	
(2) The Minister shall be the head of the Treasury.	
6.—(1) The Treasury shall—	Functions and powers of the Treasury
(a) formulate, implement, coordinate, promote and monitor macroeconomic and fiscal policies;	

- (b) receive, receipt, keep, manage and disburse public funds and public money;
- (c) prepare, regulate, implement, monitor and evaluate the national budget and matters relating to budgeting;
- (d) promote and enforce effective, transparent and responsible management of revenue, expenditure, assets and liabilities of public bodies;
- (e) manage the Consolidated Fund;
- (f) recall funds from public accounts to the Consolidated Fund;
- (g) manage public debt;
- (h) manage fiscal risks in public bodies;
- (i) provide financial policy direction on the operation of statutory bodies and state-owned enterprises;
- (j) set up appropriate institutional arrangements for the coordination and supervision of financial matters in statutory bodies and state-owned enterprises;
- (k) oversee the design and implementation of financial management systems in all public bodies;
- (l) perform such other functions as are required for the implementation of this Act; and
- (m) perform such other functions as may be assigned to the Treasury under this Act or any other written law.

(2) The functions of the Treasury shall be performed by the Secretary to the Treasury or any other officer that may be authorised in writing by the Secretary to the Treasury.

**Responsibilities of the Minister**

- 7.—(1) The Minister shall, in addition to responsibilities provided in the Constitution and other provisions of this Act—
- (a) develop and present to Cabinet and the National Assembly, annual draft estimates and such other estimates as may be necessary and oversee their implementation;
  - (b) oversee public resources and liabilities and provide a full account of the public resources and liabilities to the National Assembly;
  - (c) publish, by whatever means the Minister considers appropriate, information on economic plans and projects approved by Government and the progress made in their implementation;
  - (d) ensure adequate procedures, internal controls and guidelines exist for the use of public resources;

(e) develop and monitor implementation of macroeconomic and fiscal policy in accordance with this Act;

(f) oversee the finances of statutory bodies and state-owned enterprises; and

(g) ensure Treasury complies with its responsibilities under this Act and any other written law.

(2) The Minister shall, when submitting draft estimates to Cabinet, provide—

(a) a detailed assessment of the economic and fiscal impact of the projected revenue in relation to the projected expenditure contained in the budget policy statement required under section 28; and

(b) where appropriate, details of available options to change the draft estimates including details of possible changes in Government expenditure and programs.

(3) The Minister may delegate, in writing, his powers and responsibilities under this Act, except where the Act prohibits delegation.

(4) The responsibility of the Minister shall not be derogated merely by having exercised his power of delegation under subsection (3).

8.—(1) The President shall appoint a Secretary to the Treasury who shall be the principal financial adviser to the Government and principal controlling officer of public resources.

Secretary to  
the Treasury

(2) A person shall not be appointed as Secretary to the Treasury, unless the person—

(a) possesses a minimum qualification of a Masters' degree in economics, accounting, administration or finance from an institution accredited or recognized under the National Council for Higher Education Act, obtained subsequent to a bachelor's degree from a reputable education institution accredited or recognized under the National Council for Higher Education Act; and

Cap. 30:12

(b) has at least fifteen years relevant post qualification working experience, five of which are at senior management level.

Cap. 30:12

(3) The Secretary to the Treasury shall be responsible to the Minister for the Treasury's compliance with obligations under this Act.

Responsibilities of the Secretary to the Treasury

- 9.—(1) The Secretary to the Treasury shall—
- (a) provide economic, fiscal and financial advice to the Government;
  - (b) formulate Treasury Instructions prescribing standards for budgeting, accounting, internal auditing and classification system for public resources;
  - (c) monitor and assess compliance with this Act and any prescribed standards and practices by public bodies;
  - (d) develop and implement effective, transparent and responsible financial management systems;
  - (e) manage and administer the Consolidated Fund and other public Funds established under this Act or any other written law;
  - (f) take necessary action against an officer or public body that is found to be in breach of this Act;
  - (g) prescribe, monitor and review financial management and reporting systems in Government and public bodies;
  - (h) develop policies relating to the proper management of public resources;
  - (i) coordinate and monitor public finance and cash management systems in accordance with the fiscal and monetary policies of the Government;
  - (j) provide financial policy direction on the operations of statutory bodies and state-owned enterprises including the setup of appropriate institutional arrangements with regard to financial management;
  - (k) oversee the design and implementation of financial management systems in public bodies;
  - (l) monitor implementation of recommendations of the Public Accounts Committee of the National Assembly; and
  - (m) perform such other functions as may be prescribed by this Act, any written law or as may be considered reasonably necessary for effective and efficient management of public resources.
- (2) The Secretary to the Treasury may, except for responsibilities under subsection (1) (b), (e) and (f) and Part VIII and subject to subsection (3), delegate to a senior officer of the Treasury, in writing, the responsibilities under subsection (1) or any provision of this Act or any written law so as to ensure the effective, transparent and responsible operation of the Treasury, or where he is unable, for the time being, to perform the responsibilities or exercise any power.

(3) The Secretary to the Treasury shall not delegate any power under subsection (1) where this Act prohibits the power of delegation.

(4) The responsibilities of the Secretary to the Treasury under this Act shall not be derogated merely by the exercise of the power of delegation by the Secretary to the Treasury under subsection (2).

**10.**—(1) The Secretary to the Treasury shall have free and full access to all accounts and records of controlling officers that relate, directly or indirectly, to—

(a) the collection, receipt, expenditure, issuance and use of public money; and

(b) the procurement, receipt, issuance, custody, use and disposal of public assets.

(2) The Secretary to the Treasury may inspect, inquire into or call for additional information on the accounts and records accessed under subsection (1).

(3) In the exercise of the powers under this section, the Secretary to the Treasury may appoint, in writing, any person to inquire into any matter specified in the instrument of appointment.

Access to  
information  
by Secretary  
to the  
Treasury

**11.**—(1) The President shall appoint an Accountant General who shall be the head of Government accounting services.

Accountant  
General

(2) A person shall not be appointed as Accountant General, unless the person—

(a) possesses a minimum qualification of a Masters' degree in accounting, finance or business administration from an institution accredited or recognized under the National Council for Higher Education Act, obtained subsequent to a bachelor's degree from a reputable education institution accredited or recognized under the National Council for Higher Education Act;

(b) is a member of a relevant professional accountancy organization and the Malawi Accountants Board; and

(c) has at least ten years' relevant post qualification working experience in public finance management, five of which are at senior management level.

Cap. 30:12

(3) The Accountant General shall report to the Secretary to the Treasury.

**12.**—(1) In addition to responsibilities of a controlling officer provided in sections 14 and 15, the Accountant General shall—

(a) give advice to the Government on implementation of revenue and expenditure policies, asset management and bank accounts management;

Responsibili  
es of the  
Accountant  
General

- (b) develop, implement, monitor and evaluate accounting systems, policies and guidelines in accordance with this Act or any other written law for the proper management of public resources;
- (c) ensure safe custody of public money;
- (d) prescribe standards for asset management and safe custody of such assets and related documents;
- (e) prescribe, maintain and monitor registers of all property, assets and investments of the Government;
- (f) prepare, pay and account for Government expenditure;
- (g) prepare and consolidate financial management and accounting reports;
- (h) develop, maintain and monitor the implementation of effective and transparent accounting and financial management policies, procedures and practices in Government;
- (i) manage Government bank accounts, including banking and payment systems;
- (j) manage capacity building and placement of accounting staff to Ministries, departments and agencies, subject to the applicable public service laws;
- (k) maintain and secure the custody and distribution of accounting documents and equipment;
- (l) coordinate and monitor the implementation and maintenance of locksmith services in Government; and
- (m) develop, implement and maintain an effective, transparent and responsible integrated financial management information system in the Government.
- (2) The Accountant General may, subject to subsection (3), delegate, in writing, to a senior officer of the Accountant General's Department, the responsibilities of the office under this Act or any other written law where the Accountant General is unable to exercise the responsibilities in person.
- (3) The Accountant General shall not delegate any of the following functions—
- (a) signing of consolidated financial statements; and
- (b) opening of bank accounts.
- (4) The responsibilities of the Accountant General under this Act shall not be derogated merely by the exercise of the power of delegation by the Accountant General under subsection (2).

**13.—Every Minister shall ensure that—**

- (a) controlling officers under the charge of the Minister comply with their responsibilities under this Act for the effective, transparent and responsible management of public resources;
- (b) estimates of revenue and expenditure provided by entities that comprise the assigned responsibilities of the Minister are realistic and fully consistent with the budget policy statement of the Government published pursuant to section 28;
- (c) the public resources allocated to the assigned responsibilities of the Minister in an Appropriation Act achieve the objects and outputs approved for each vote; and
- (d) reporting responsibilities under this Act for the assigned area of responsibility of the Minister are complied with.

Responsibilities of Ministers

**14.—(1) A controlling officer shall, with respect to the controlling officer's institution, ensure that—**

- (a) this Act is complied with;
- (b) advice on financial management is provided to the responsible Minister;
- (c) adequate information on financial allocation and utilization, revenue collection, and acquisition, management and disposal of assets is provided to the responsible Minister;
- (d) all accounts and records relating to the functions and operations of the institution are properly maintained;
- (e) all necessary precautions are taken to safeguard the collection and custody of public money;
- (f) all expenditure is properly authorized and applied to the specific purposes for which it is appropriated;
- (g) the collection of public money is according to approved plans and estimates;
- (h) all expenditure is incurred with due regard to economy, efficiency, effectiveness and the avoidance of waste;
- (i) there is no over-expenditure or over-commitment of funds;
- (j) all necessary precautions are taken to safeguard public resources;
- (k) any tax, duty, fee, levy or other charge for which the institution is responsible for collecting under law, is collected promptly and to the fullest extent;
- (l) any proposal to charge for the supply of goods or services is consistent with the economic and fiscal policy of the Government;

Responsibilities of controlling officers on management of public funds

(m) any financial information required by any standing committee of the National Assembly is submitted to that committee promptly and is accurate;

(n) estimates and forecasts in respect of collection and expenditure of public money are prepared in the format specified in Treasury Instructions;

(o) after the first six months of each financial year and at such other times as required by the Secretary to the Treasury, reports are submitted as specified in Treasury Instructions;

(p) an effective system of internal controls is developed and maintained;

(q) all officers in the institution are aware of their duties and responsibilities under this Act;

(r) relevant legislation and Government policies which impact on finance management are complied with;

(s) outcomes are consistent with those specified in the Appropriation Act;

(t) public resources are employed and managed in an efficient, effective, economic, transparent and responsible manner; and

(u) effective and appropriate action is taken against any officer who contravenes or fails to comply with a provision of this Act.

(2) The controlling officer shall ensure that any tax, duty, levy or other charge collected pursuant to subsection(1)(j) is reviewed and reported upon, at least once in each financial year, in the form prescribed in Treasury Instructions in order to establish whether—

(a) the level of such tax, duty, fee, levy or other charge is adequate; and

(b) the tax, duty, fee, levy or other charge should be varied and, if so, by what amount.

(3) A controlling officer may delegate responsibilities under this section, but the responsibility of the controlling officer shall not be derogated or reduced by reason of any such delegation.

**15.—(1)** A controlling officer shall, with respect to the controlling officer's institution, ensure that—

(a) the Public Procurement and Disposal of Public Assets Act is complied with in the procurement and disposal of public assets; and

(b) proceeds from disposal of public assets are accounted for and deposited into a relevant bank account.

(2) A controlling officer shall not loan or transfer a public asset to any other person or permit any other person to use a public asset, for purposes other than carrying out the functions of the institution.

(3) A controlling officer shall not use a public asset as security for a loan without prior written approval of the Minister.

**16.—Every officer shall—**

(a) comply with this Act in so far as it is applicable to that officer;

(b) ensure that public resources within the officer's area of responsibility are used in a way which is lawful, economic, efficient, effective, transparent and accountable;

(c) ensure that adequate arrangements are made for the proper use, custody, safeguard and maintenance of public assets and stores which are in the custody or under the control of the officer;

(d) safeguard the financial interests of the Government at all times; and

(e) comply with applicable financial management and internal control systems.

Responsibi-  
lities of  
officers

**17.—(1)** The President shall appoint a Comptroller of Internal Audit who shall be the head of Government internal auditing services.

(2) A person shall not be appointed as Comptroller of Internal Audit, unless the person—

(a) possesses a minimum qualification of a Masters' degree in auditing, accounting, finance, commerce, administration or information technology from an institution accredited or recognized under the National Council for Higher Education Act, obtained subsequent to a bachelor's degree from a reputable education institution accredited or recognized under the National Council for Higher Education Act;

(b) is a member of a relevant professional accountancy organization and the Malawi Accountants Board; and

(c) has at least ten years' relevant post qualification working experience in internal audit services or public finance management, five of which are at senior management level.

(3) The Comptroller of Internal Audit shall report to the Secretary to the Treasury.

Comptroller  
of Internal  
Audit

Cap. 30:12

**18.—(1)** In addition to responsibilities of a controlling officer provided in sections 14 and 15, the Comptroller of Internal Audit shall—

Responsibi-  
lities of  
Comptroller  
of Internal  
Audit

- (a) provide internal audit services to the Government in accordance with the Internal Auditing Charter promulgated by the Minister under section 19;
- (b) conduct risk based financial, compliance, performance, information communication technology, forensic and any other specialized internal audit;
- (c) manage placement of internal auditing staff in Government Ministries, departments and agencies, subject to the applicable public service laws;
- (d) advise Government on effective risk management, internal control and good governance;
- (e) advise Government on management, use and deployment of public assets;
- (f) advise Government on investments and securities;
- (g) coordinate the operations of Audit Committees; and
- (h) conduct special internal audit assignments in public bodies.

(2) The Comptroller of Internal Audit shall, in the performance of duties under this Act have access to accounts, records, books, vouchers, financial and non-financial management systems, and documents relating to the accounts of any Government institution or agency.

(3) The Comptroller of Internal Audit may inspect, inquire into and call for additional information on the accounts, records, books, vouchers, financial and non-financial management systems and documents accessed under subsection (2).

Audit committees

19.—(1) There shall be established for each Ministry or Government institution, an audit committee which shall perform functions and exercise such powers as are conferred on the audit committee under this Act.

(2) An audit committee may serve more than one Ministry or Government institution, where the Minister determines it appropriate.

(3) An audit committee shall be appointed by the Minister and shall comprise five members, as follows—

- (a) one member nominated by a professional body for accountants;
- (b) one member nominated by a professional body for internal auditors;
- (c) one member nominated by the Malawi Law Society; and

- (d) two members being retired senior public servants with extensive knowledge or experience in accounting or auditing.
- (4) The Minister shall, by Order published in the *Gazette*, promulgate an Audit Committee Charter which shall prescribe—
- (a) the roles and responsibilities of audit committees;
  - (b) procedure for the conduct or transaction of business;
  - (c) the term of office for members of audit committees;
  - (d) allowances payable to the members; and
  - (e) any other matter relevant for the effective and efficient delivery of the mandate of the committees.

20.—An audit committee shall have oversight over and give advice on—

- (a) governance, risk management and control processes established and maintained within the Government and the procedures in place to ensure that they are operating as intended;
- (b) systems and practices established by the Government to monitor compliance with laws, policies and standards of ethical conduct;
- (c) systems and practices for the prevention, deterrence and detection of fraud;
- (d) internal audit arrangements for Government institutions;
- (e) observations and conclusions of internal auditors, external auditors and any regulatory agency and track management's action plans to address the observations; and
- (f) any other responsibilities as set out in the Audit Committee Charter.

Functions of audit committee

### PART III—PARLIAMENTARY OVERSIGHT OF BUDGETARY MATTERS

21. In addition to the responsibilities set out in Standing Orders of the National Assembly, the Budget Committee of the National Assembly shall—

- (a) provide general direction on budgetary matters to the Government;
- (b) review the budget policy statement and estimates and make appropriate recommendations to the National Assembly;
- (c) monitor adherence by the Government to principles of public finance management set out in the Constitution and this Act; and

Responsibilities of the Budget Committee

Powers of the  
Budget  
Committee

(d) monitor all budgetary matters falling within the competence of the National Assembly under this Act and report on those matters to the National Assembly.

**22.—(1)** For purposes of exercising any responsibility under this Act, the Budget Committee—

(a) may inquire into any Government financial matter;

(b) shall have full access to Government records relating to revenue, expenditure and any other public resources which are relevant to an inquiry;

(c) may, by notice in writing, require any person having possession or control of any Government records relating to revenue, expenditure and other public resources, to deliver to the Committee all or any record specified in the notice; and

(d) may cause extracts to be taken from any Government record relating to revenue, expenditure and any other public resource without payment of any fee.

(2) A member of the Budget Committee shall not be personally liable to civil action for any act or omission done in good faith under this Act.

Meetings and  
reports of the  
Budget  
Committee

**23.—(1)** The Budget Committee shall meet at least twice every year for purposes of performing responsibilities of the Committee under this Act.

(2) The Budget Committee shall present its reports to the National Assembly in accordance with Standing Orders of the National Assembly.

## Confidentiality

**24.** The Budget Committee or a member of the Committee shall not publish or disclose to any person or entity, other than in the course of duty, any information which comes to the knowledge of the Committee or the member in the course of performing the functions and responsibilities of the Committee under this Act.

## PART IV—ECONOMIC, FISCAL AND FINANCIAL POLICY

Principles of  
responsible  
fiscal  
management

**25.—(1)** Subject to subsection (3), the Government shall pursue policy objectives which are consonant with applicable fiscal rules and the principles of responsible fiscal management specified in subsection (2).

(2) The following principles shall apply to fiscal management in the Government—

(a) total public debt shall be managed at prudent levels so as to provide a buffer against factors that may impact adversely on the level of total public debt;

(b) the total overall expenditure of the Government in each financial year shall be in the public interest and designed to achieve long-term fiscal stability within any borrowing program;

(c) the net worth of the Government shall be maintained at levels that provide a buffer against factors that may impact adversely on the Government's net worth;

(d) the fiscal risks of the Government shall be managed with a view to maintaining fiscal stability; and

(e) the economic and fiscal policies to be pursued shall be consistent with a reasonable degree of predictability about the level and stability of tax rates in the medium term.

(3) The Government may deviate from any of the principles of responsible fiscal management specified in subsection (2) only in cases of exceptional circumstances, and where this is done—

(a) the deviation shall be temporary; and

(b) the Minister shall specify the—

(i) reasons for the deviation, including the applicable exceptional circumstances;

(ii) strategy the Government intends to use to return to the principles; and

(iii) estimated period of the deviation which, in any case, shall not exceed two years.

(4) Where exceptional circumstances referred to in subsection (3) arise during a financial year, the exceptional circumstances shall be disclosed to the National Assembly forthwith if the National Assembly is in session, and if not, at the commencement of the next ensuing session, and the exceptional circumstances shall be included in the next ensuing economic and fiscal update.

26. All financial reports, financial statements, associated financial information and accounting procedures required by this Act shall be made in accordance with generally accepted accounting practices.

Accounting  
procedures  
and practices

27.—(1) The Minister shall publish, not later than 30th November of each year, an economic and fiscal policy statement for the next financial year and forecasts for the two years following that financial year, which shall—

Economic  
and fiscal  
policy  
statement

(a) specify the economic and fiscal policy that the Government will follow in all economic and fiscal dealings, and disciplines that the Government will adhere to;

(b) specify or re-affirm the long-term fiscal policy objectives of the Government and in particular, provide for the principal variables specified in sections 30 and 31;

(c) specify the broad strategic priorities which shall guide the Government in preparing the estimates for that financial year; and

(d) indicate by appropriate means, the intentions of the Government regarding the variables specified in sections 30 and 31.

(2) The economic and fiscal policy statement shall—

(a) assess the extent to which the objectives, priorities, and intentions referred to under subsection (1) are consistent with the requirement to produce a fiscally responsible budget under section 25; and

(b) assess the consistency of the objectives, priorities, and intentions referred to under subsection (1) with the objectives, priorities, and intentions indicated in the immediately preceding economic and fiscal policy statement, or, if amended, the amended statement and, where these are not consistent, justify the difference.

(3) Any person may, within twenty-eight days of the publication of the economic and fiscal policy statement, submit to the office of the Minister, in writing, any question or recommendation the person may have on the statement.

(4) The Minister shall, within sixty days of receiving the submission under subsection (3), provide a response in writing to the person.

(5) The Minister shall, no later than 15th January in each year, conduct public consultations on the economic and fiscal policy statement and ensure public participation in the development of the budget policy statement laid before the National Assembly under section 28.

Budget policy statement

28.—(1) The Minister shall lay before the National Assembly, with the Estimates, a written budget policy statement.

(2) The budget policy statement shall include—

(a) a budget message, which shall include such supporting financial, statistical, output performance, and other information, data and recommendations as the Minister may determine are in the public interest and consistent with the principles of responsible fiscal management set out in section 25; and

(b) a statement, with forecasts, providing a projection of expenditures for each category of outputs for the ensuing financial year and the two years following that financial year including—

- (i) the details of the estimated revenue of the Government;
- (ii) the details of the estimated expenditure of the Government;
- (iii) the Government's debt management responsibilities and details of a financial plan to meet those responsibilities; and
- (iv) a statement indicating that the annual budget is fiscally responsible in accordance with the principles set out in section 25.

29.—The Minister shall submit to the National Assembly, together with the budget policy statement referred to in section 28, a report on, and the strategy for, managing the fiscal risks of the Government which shall—

- (a) include an assessment of the extent to which the budget policy statement is consistent with the economic and fiscal policy statement;
- (b) include an explanation of the reasons for any significant differences between the current economic and financial situation of the Government and the information and intentions presented in the previous economic and fiscal policy statement;
- (c) where circumstances have changed, present an amended set of intentions;
- (d) provide projections of movements in the variables specified in sections 30 and 31 which demonstrate intended progress towards achieving the long-term objectives specified in the economic and fiscal policy statement most recently published and state the significant assumptions on which the projections are based; and
- (e) include the macroeconomic and fiscal risks that may adversely affect implementation of the budget and the proposed strategies to mitigate the impact of the risks.

30.—(1) Economic reports required under this Part shall include, forecasts of projected movements in Malawi of the information specified in Part I of the *First Schedule*.

(2) Fiscal forecasts required under this Part shall include, where available, the information specified in Part I of the *First Schedule*.

(3) Economic forecasts shall include a statement of all significant assumptions underlying the forecasts.

Fiscal risk  
and  
management  
strategy

Economic  
and fiscal  
data  
*First  
Schedule*  
*First  
Schedule*

(4) Where information to be included in reports and statements under this section is not available, the Minister shall provide, in the report or statement, the reason why the information is not available.

**Reporting requirements  
First Schedule**

**31.**—(1) Any forecast or statement required under this Part shall include details of the information specified in Part II of the *First Schedule*.

(2) Where information to be included in reports and statements under this section is not available, the Minister shall provide, in the report or statement, the reason why the information is not available.

**Provision of relevant information  
First Schedule**

**32.**—(1) Every controlling officer and chief executive officer shall provide to the Secretary to the Treasury such relevant information, as may be in that officer's possession, that will assist the Secretary to the Treasury to produce the economic and fiscal data and reporting information required under this Part.

(2) A controlling officer or chief executive officer who, on the date prescribed by the Secretary to the Treasury or on demand, fails to comply with the obligation under subsection (1) commits an improper conduct.

## PART V—PARLIAMENTARY APPROPRIATION AND BUDGET

**Estimates  
First Schedule**

**33.**—(1) The Minister shall, not less than fourteen days before presenting the Estimates to the National Assembly, prepare and submit to Cabinet, a statement of anticipated revenue for the forthcoming financial year together with a statement of anticipated budgetary appropriations.

(2) The Cabinet shall consider and approve a proposed budget for the forthcoming financial year and the Minister shall thereafter, cause the Treasury to prepare the Estimates, in accordance with the budget approved by Cabinet, for introduction to the National Assembly.

(3) Subject to section 175 of the Constitution, the Minister shall, on behalf of the Government, lay before the National Assembly a statement of the estimated receipts, grants, all other revenue and expenditure for the forthcoming financial year.

(4) Details of statutory expenditure shall be included in the Estimates in order to present the total expenditure proposed in the programs or activities of the Government, but shall not be submitted to the vote of the National Assembly.

(5) The statement of statutory expenditure shall include a brief description of all projected statutory expenditures for the forthcoming financial year, stating the authority for any payment to

be made and showing comparative revised estimate figures for each item in respect of the previous appropriation period.

34. The Budget Estimates shall include the following information in respect of each vote—

- (a) the minister responsible for the vote;
- (b) the institution and controlling officer administering the vote;
- (c) a brief description of each output to be delivered by the institution together with an estimate of the expenditures to be made and any receipts from charges for the delivery of that output;
- (d) all other revenues to be collected on behalf of the Government;
- (e) a brief description of any output to be provided by a third party on behalf of the Government together with an estimate of the expenditures to be made;
- (f) a brief description of any transaction on behalf of the Government together with an estimate of the expenditures to be made;
- (g) comparative revised estimate figures for each of the items in paragraphs (c) to (f) for the previous appropriation period; and
- (h) any other relevant information as directed by the Minister.

35.—(1) Subject to section 176 of the Constitution, no public money shall be expended unless the expenditure is authorized by an Appropriation Act in accordance with subsection (2) or is statutory expenditure.

(2) No expense or liability shall be incurred by Government unless the expenditure in relation to such expense or liability is chargeable to a category specified in subsection (3).

(3) A separate appropriation shall be made for each of the following—

- (a) each category and output to be delivered by an institution;
- (b) any payment to a non-government agency or person by way of grant or otherwise;
- (c) loans by the Government to any third party;
- (d) capital contributions and capital purchases;
- (e) each item of statutory expenditure; and
- (f) any other payment on behalf of the Government.

Form of estimates

Appropriation required

(4) The authority to expend cash or incur expenses or liabilities under an Appropriation Act shall lapse at the end of the financial year to which that Act relates.

(5) Subject to this Part, any money appropriated under this section shall be expended only in relation to that appropriation, and for no other purpose.

(6) Expenditure of public money made in respect of statutory expenditure shall be managed and accounted for in the same manner as public money expended under an Appropriation Act.

Adjustment  
for  
unforeseen  
expenditure

**36.**—(1) The annual Estimates presented to the National Assembly shall contain a vote for unforeseen expenditure with a proposed appropriation not exceeding one percent of the total appropriation for outputs.

(2) The Minister may only use funds from the unforeseen expenditure vote in exceptional circumstances and any expenditure under the vote shall first be approved by the Cabinet.

(3) Subject to subsection (2), where the Minister considers that expenditure from the Consolidated Fund in any financial year in excess of, or without, appropriation by the National Assembly should be approved, he may transfer to one or more nominated votes from the vote for unforeseen expenditure such sum or sums as he considers necessary, not exceeding the amount of the balance available in the vote for unforeseen expenditure.

(4) If, during any regular or other review of budget performance, it appears to the Cabinet that any vote or votes may be under-spent during a financial year, the Cabinet may direct the Minister to transfer any such surplus to the vote for unforeseen expenditure and such sums shall be available for transfer as provided in subsection (3).

(5) No expenditure in excess of, or without, appropriation other than is provided in this section, is permitted.

(6) This section shall not apply to statutory expenditure.

(7) Without affecting the validity of any transfers approved under subsections (1) and (2), the financial statements for the financial year in which any transfer occurs shall disclose each instance of a revised appropriation, notwithstanding whether such sum has been subsequently appropriated during the course of the financial year in an amended or supplementary appropriation Act, together with an explanation of the reasons for such revision.

**37.**—(1) The National Assembly shall, by 31st March every year, consider and approve—

Approval of  
Appropriation  
Bill

(a) the annual budget for the ensuing financial year;

(b) the Appropriation Bill; and

(c) any other Bill that may be required to implement the annual budget.

(2) An annual budget, approved by the National Assembly, shall be assented to by the President so as to take effect from 1st April of the ensuing financial year.

**38.**—(1) The Minister shall, subject to section 177 of the Constitution, where in any financial year—

Suppleme-  
ntary  
appropriation

(a) the amount appropriated by the Appropriation Act for any purpose is insufficient;

(b) a need arises for expenditure for a purpose for which no amount is appropriated by the Appropriation Act; or

(c) any moneys have been expended for any purpose in excess of the amount appropriated for that purpose by the Appropriation Act,

as soon as practicable, present to the National Assembly for approval any such expenditure or planned expenditure.

(2) Where the supplementary expenditure is approved under subsection (1), the Minister shall present a Supplementary Appropriation Bill as soon as practicable for the appropriation of the sums so approved.

**39.**—Upon the President assenting to an Appropriation Bill, the Secretary to the Treasury shall make funds available to the respective votes according to—

Appropriation  
of Funds

(a) revenue performance; and

(b) cash flow forecasts agreed between the controlling officer for the vote and the Secretary to the Treasury.

**40.**—(1) The Secretary to the Treasury may, at the request of a controlling officer and with the approval of the Minister, direct that an amount appropriated for a set of activities, outcomes, outputs or programs to be delivered by an institution, be transferred to another set of activities, outcomes, outputs or programs to be delivered by that institution where—

Transfer  
between  
outputs

(a) the amount to be transferred between activities, outcomes, outputs or programs does not increase the total allocation of the activities, outcomes, outputs or programs to which the amount is

transferred by an amount exceeding ten percent of the total expenditure approved for that financial year;

(b) the transfer does not compromise achievement of outcomes specified in the budget policy statement; and

(c) the total appropriation for that financial year for that institution is unaltered.

(2) Without limiting the validity of the transfers made under subsection (1), a record of transfers made under the subsection in a financial year shall be made in a Supplementary Appropriation Act for the same or the succeeding financial year, and all such budget variations shall be noted in the financial statements for that financial year.

(3) For purposes of this section, "outcome" means the impacts or consequences for the people of Malawi of the outputs or activities of Government or the results of the outputs produced.

Charge for supply of goods or provision of services

**41.**—Save as otherwise expressly provided in any other written law, a public institution may, with the approval of the Minister or under the authority of a written law, charge for the provision of goods or services.

#### PART VI—PUBLIC MONEY AND THE CONSOLIDATED FUND

Consolidated Fund

**42.**—(1) Subject to the Constitution, the Secretary to the Treasury shall determine the revenue to be paid into the Consolidated Fund.

(2) The Secretary to the Treasury may establish such accounts as may be deemed necessary for the proper accounting of moneys in the Consolidated Fund.

(3) A controlling officer shall cause revenue collected by an institution under the charge of the controlling officer to be deposited into the Consolidated Fund as prescribed in Treasury Instructions.

(4) An officer who collects revenue and fails to deposit the revenue as prescribed in Treasury Instructions commits an improper conduct.

(5) Public revenue collection agents shall transmit revenue collected on behalf of a public institution to the Consolidated Fund as prescribed by the Secretary to the Treasury.

(6) No money shall be withdrawn from the Consolidated Fund except in accordance with section 173 of the Constitution and this Act.

(7) For purposes of this section, revenue raised or received for the purpose of a public institution shall not include money received on

deposit or held on trust or held on trust by any other officer for any purpose other than the purposes of the Government or a public institution.

(1) Money held for the purposes of development projects shall be accounted for in a separate account in the Consolidated Fund known as the Development Fund.

Development  
Fund

(2) There shall be paid into the Development Fund, all money held by the Treasury for the purposes of the Development Fund immediately prior to the coming into operation of this Act, and all money subsequently received or appropriated for the purposes of the Fund, including the proceeds of any loan which may be raised for general development purposes.

(3) The estimates of expenditure to be made from the Development Fund shall show the total estimated cost of each project and the amount estimated to be required for expenditure during that financial year in respect of the projects.

(4) The amount applied in respect of any project during any financial year shall be in accordance with the directions of the Secretary to the Treasury but shall not exceed the unexpended balance of the total estimated cost of the project as shown in the latest estimates approved by the National Assembly.

(5) Where it is necessary in the public interest, for sums to be spent on a project for which no total estimated cost has been approved in any development Estimates laid before the National Assembly, the Minister may direct that an additional item be created to provide for such project with such particulars, including an estimate of the total cost, as may be appropriate and may authorize the issuance of sums to be applied to such project out of the total appropriated by the National Assembly.

(6) Where the Minister exercises the power under subsection (5), the Minister shall, not later than the next meeting of the National Assembly occurring after the expiration of seven days from the date of the exercise of the power, lay before the National Assembly a supplementary development Estimate providing for the project.

(7) Where it is necessary in the public interest for the total estimated cost shown in the Development Estimates in respect of any project to be varied, the Minister may direct that the total estimated cost be varied accordingly.

(8) The powers conferred on the Minister by subsections (5) and (7) shall not be exercised so as to increase the total estimated cost of a project provided for in the Development Estimates approved by

the National Assembly by an amount exceeding five percent of the approved total estimated cost of the project, or so as to cause the amount authorized to be spent by the approved Development Estimates to be exceeded.

Treasury  
Funds

**44.—(1)** The Minister may, on written recommendation of the Secretary to the Treasury, by Order published in the *Gazette*, establish special funds to be known as Treasury Funds.

(2) An Order establishing a Treasury Fund under subsection (1) shall prescribe—

- (a) the objects of the Fund;
- (b) duration of the Fund;
- (c) regulation, management and reporting requirements of the Fund;
- (d) budgeting requirements of the Fund;
- (e) accounting and audit of the Fund; and
- (f) any other matters as the Minister may determine necessary.

(3) Where a Treasury Fund is established, the Secretary to the Treasury shall cause to be maintained, a separate account within the Consolidated Fund in respect of that Treasury Fund which shall be regulated and managed in accordance with this Act.

(4) The Treasury Fund shall remit to the Consolidated Fund such sums, in such manner and at such intervals as prescribed in the Fund Order published under subsection (2).

(5) The Minister shall include a report on Treasury Funds in the budget statement presented to the National Assembly.

(6) The Secretary to the Treasury shall review the performance of each Treasury Fund at the expiry of the term of the Fund and may, where the Secretary to the Treasury is—

- (a) satisfied with the performance of the Fund and it is in the public interest that the Fund be extended, recommend to the Minister extension of the Fund for a specified duration;
- (b) not satisfied with the performance of the Fund, recommend to the Minister discontinuation of the Fund; or
- (c) not satisfied with the performance of the Fund but continuation of the fund is in the public interest, recommend to the Minister restructuring of the Fund and its extension for a specified duration.

(7) The Minister shall, on the recommendation of the Secretary to the Treasury, by Order published in the *Gazette*, extend the duration

of a Treasury Fund for a specified period or discontinue a Treasury Fund.

(8) The Minister shall, where a Treasury Fund continues to under performing after restructuring, discontinue the Fund.

(9) Section 175 (1), (2), (3) and (4) of the Constitution shall not apply to receipt and expenditure of Treasury Funds.

**45.**—(1) The Secretary to the Treasury shall establish a Treasury Single Account for the proper accounting of public moneys—

(a) which shall serve as a unified structure of bank accounts to give a consolidated view of the public cash resources;

(b) into which, all Government cash including moneys received by public bodies shall be deposited; and

(c) from which, all expenditure of the Government and public bodies shall be made.

(2) The Treasury Single Account shall be maintained at the Reserve Bank of Malawi.

(3) The Secretary to the Treasury may transfer money from the Treasury Single Account to another account held by the Government or a public body.

(4) The Secretary to the Treasury may agree with any bank, the terms and conditions for the conduct of the banking business of the Government, including arrangements for deposits to be made under the authority of this Act or any other written law and any charges payable.

(5) The Secretary to the Treasury may make arrangements with any bank for the receipt, custody, payment and transmission of public money within or outside Malawi.

(6) The Secretary to the Treasury shall keep complete and current records of all bank accounts for which the Secretary to the Treasury is responsible under the Constitution, this Act or any other written law.

**46.**—(1) Public money is property of the Government.

(2) Public money shall, except as otherwise provided in this Act, be deposited into bank accounts designated by the Secretary to the Treasury for that purpose and such accounts shall form part of the Consolidated Fund.

(3) Public money shall not be paid out of a designated bank account except as provided by the Constitution or this Act.

Treasury  
Single  
Account  
System

Dealing with  
public money

(4) Notwithstanding any other written law, a public body shall not open, operate or continue to operate a bank account for the deposit or withdrawal of public money other than in accordance with this Act.

(5) The Secretary to the Treasury may demand the disclosure of records of an account, current or otherwise, operated by a public body from the manager of a bank operating in Malawi and on receiving such demand, the manager shall comply with the demand accordingly.

Banks to furnish statements

**47.**—(1) Every bank at which a Government account is kept, shall send to the Secretary to the Treasury and to the National Audit Office, statements of the bank account as the Secretary to the Treasury or the Auditor General may require.

(2) The statements submitted pursuant to subsection (1) shall show particulars of the account as the Secretary to the Treasury or the Auditor General may require.

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(3) For purposes of this section “National Audit Office” has the meaning assigned thereto under the Public Audit Act.

Overseas bank accounts and imprests

**48.**—(1) The Secretary to the Treasury may direct that any public money received outside Malawi be paid into a bank account for the credit of such imprest account or other account as the Secretary to the Treasury may determine.

(2) The bank account referred to in subsection (1) shall be operated by a person appointed for that purpose, by the Secretary to the Treasury.

(3) No money shall be withdrawn from a bank account referred to in subsection (1), moved to another bank account or spent except with the written approval of the Secretary to the Treasury.

(4) Subject to Part V, any money in a bank account referred to in subsection (1) may be utilized for expenditure approved under the Constitution, this Act or any other written law, and shall be deemed to have been issued by way of imprest under section 51 and that section shall apply, with the necessary modifications.

(5) The Secretary to the Treasury may cancel the appointment of a person, made pursuant to subsection (2), to operate a bank account held under this section.

Balances may be invested

**49.**—(1) The Secretary to the Treasury may invest, at any bank and in such other securities as the Minister may determine to be consistent with the financial policies of the Government, any balances in the Consolidated Fund, or any part thereof, at call or for

such period and on such terms as the Secretary to the Treasury determines appropriate.

(2) Interest earned on investments made pursuant to subsection (1) shall be credited to the Consolidated Fund and may be used only in accordance with an Appropriation Act.

(3) The Secretary to the Treasury may sell and convert into money any securities referred to in subsection (1) and the money realized therefrom shall be paid into the Consolidated Fund to the credit of the account from which the money invested was drawn.

(4) The investment or lending of moneys forming part of the Consolidated Fund shall not be considered a withdrawal from the Consolidated Fund.

**50.—(1)** The Secretary to the Treasury may transfer any balance or any part of any balance of any fund or account within the Consolidated Fund to another fund or account within the Consolidated Fund for such period of time and on such terms as the Secretary to the Treasury determines appropriate.

Temporary  
transfer  
from one  
fund or  
account to  
another

(2) Any money transferred pursuant to subsection (1) shall be deemed to have been borrowed by the fund or account into which the transfer has been made, and shall be restored to the fund or account from which the transfer was made, together with any interest gained thereon, before the end of the financial year in which the transfer was made.

(3) The Secretary to the Treasury shall report particulars of every transfer made pursuant to subsection (1) in the financial statements for the year in which the transfer was made.

(4) No transfer shall be made from or between trust accounts.

**51.—(1)** The Secretary to the Treasury may issue money, by way of imprest, in the name of the Government from the Consolidated Fund for the purpose of effecting payment of an amount payable by the Government to a person or an account within or outside Malawi.

Imprest

(2) The Secretary to the Treasury may, in such cases as the Secretary to the Treasury determines appropriate, authorize an imprest account to be opened at a bank and the account shall be identified as a Government account.

(3) All withdrawals from an imprest account shall be made by an imprestee, except in special circumstances approved in writing by the Secretary to the Treasury.

(4) Money required to be issued by way of imprest shall, as far as practicable, be charged against another vote or other authority for the service for which the imprest is required.

(5) Notwithstanding subsection (4), the Secretary to the Treasury may charge money by way of general imprest against the relative fund or account instead of a vote or other authority, and in any such case, the amount so charged shall be issued accordingly and expenditure against money so issued to general imprest shall, in due course, be transferred to the several votes or authorities for the purposes of which the money is expended.

(6) Money issued by way of general imprest in any financial year shall not at any time, exceed two percent of the total amount appropriated that financial year.

**Remission or  
refund of  
revenue**

**52.**—(1) The Minister may, on recommendation of the Secretary to the Treasury, authorize any officer to remit any revenue which may be due or to refund any sum received by way of revenue if the Minister is satisfied that such remission or refund is necessary and in the public interest.

(2) The Minister shall, within thirty days of the expiry of each financial year, publish in the *Gazette*, particulars of remissions made during the financial year.

**Refund and  
corrections**

**53.**—(1) The Secretary to the Treasury may, within six years of any sum being paid into the Consolidated Fund, refund, as statutory expenditure, all or so much of the sum that was not by law payable to the Government, whether or not an application has been made for a refund.

(2) The Secretary to the Treasury shall record the payment of the amount made pursuant to subsection (1) against the appropriate vote, other authority, fund or account.

(3) Where any person is indebted to the Government and it is subsequently discovered that there is an error in the amount of the debt or the identity of the debtor, the Secretary to the Treasury may, on being satisfied as to the facts, amend the records to reflect the true position.

**Donations  
and grants**

**54.**—(1) A public body may receive a donation or grant only after approval of the Minister.

(2) A public body shall notify the Minister of the actual receipt of the donation or grant within thirty days of receiving the donation or grant.

(3) Where a project to be financed by a donation or grant requires Government counterpart funding, the project shall not start until—

(a) the required counterpart funding is appropriated in accordance with this Act or is authorised by any other written law; or

(b) the Minister has given a written authorisation for the project to start.

(4) The Minister shall—

(a) where the National Assembly is sitting, within seven days of granting the written authorisation; or

(b) where the National assembly is not sitting, within seven days of the commencement of the next sitting,

inform the National Assembly of the authorisation given pursuant to subsection (3)(b).

(5) The public body that receives a donation or grant shall record the value of the donation or grant in its books of accounts.

(6) The public body shall administer and account for the donation or grant in accordance with—

(a) generally accepted accounting practices; and

(b) accounting rules and procedures specified in the donation or grant agreement between the recipient and the development partner, in so long as the rules and procedures are not inconsistent with generally accepted accounting practices.

(7) A donation or grant received under this section is a public resource and shall be subject to audit in accordance with the Public Audit Act.

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(8) For purposes of this section—

“donation or grant” means a gift, financial contribution or other assistance from a development partner which is not repayable and—

(a) is intended to—

(i) finance a project;

(ii) facilitate delivery of public goods or services for the benefit of the people of Malawi; or

(iii) otherwise assist a public body to achieve goals that are consistent with the policy objectives of the Government; and

(b) under which the public body is required to act in accordance with terms and conditions specified in the donation or grant agreement.

## PART VII—TRUST MONEY AND UNCLAIMED MONEY

55.—(1) Trust money shall be held and accounted for separately from public money.

Trust money

(2) Trust money shall be used only in accordance with this Part.

(3) For the purposes of this Part, "trust money" means money that is—

- (a) deposited with the Government pending the completion of a transaction or dispute and which may become repayable to the depositor, the Government or a third party;
- (b) paid into court for possible repayment to the payer or a third party by virtue of any written law, judicial direction or other authority;
- (c) unclaimed money that is due to, or belongs to any person and is deposited with the State;
- (d) paid to the Government in trust for any purpose as approved by the Secretary to the Treasury; and
- (e) due to, or belongs to any person and is collected by the Government under an agreement between the Government and that person.

Establishment  
of a Trust  
Fund and  
trust accounts

**56.**—(1) The Secretary to the Treasury may establish a Trust Fund and trust accounts under the Trust Fund to receive trust money, and all such moneys shall be paid into trust accounts constituting the Trust Fund established for that purpose.

(2) A controlling officer or a designated officer of an organization responsible for a trust account, shall prepare for the account established or to be established within the Trust Fund, an instrument, signed by that officer, setting out—

- (a) a request for the establishment of the account;
- (b) the name of the account;
- (c) the name of the Ministry or organization operating the account;
- (d) any legal requirement to set up or manage a trust account, citing the name and relevant section of the Act;
- (e) the names and designations of not less than two authorized signatories;
- (f) the purpose of the account;
- (g) the source of funds to be deposited in the account;
- (h) the approved categories of expenditure to be paid from the account;
- (i) any particular conditions for use of the account; and
- (j) instructions for the disposal of funds on the completion of the purpose or the closure of the account.

(3) The Secretary to the Treasury may approve or refuse to grant approval of the request made pursuant to subsection (2) and shall endorse appropriately on the face of the instrument.

(4) Notwithstanding subsection (3), the Secretary to the Treasury shall not withhold approval of a request where trust money has already been received by a public body.

(5) Where the Secretary to the Treasury approves a request for establishment of a trust account, the account shall be established forthwith and the instrument shall constitute an agreement for the operation of the account.

**57.—(1)** A trust account shall always be in credit.

(2) There shall be paid to the credit of a trust account, all moneys paid for the purposes of the account.

(3) There shall be issued and paid to or on behalf of the depositor, such amounts and in such manner as provided in the agreement related to the trust account.

(4) The Government shall not be liable to any person for any money payable into the trust account except for money actually paid into the account under the agreement.

(5) Moneys may be paid out of a trust account only—

(a) for the purposes of the account or as authorized by law;

(b) if sufficient credit is available in the account; and

(c) in accordance with Treasury Instructions or, if no Treasury Instructions exist, in accordance with the rules and procedures prescribed for the payment of public moneys.

(6) The Secretary to the Treasury may appoint an agent to manage some or all trust moneys on such terms and conditions as the Secretary to the Treasury may determine, subject to the requirements of this section.

(7) An institution shall not qualify for appointment as an agent under subsection (6) unless the institution is a recognized professional institution of a kind and with experience in the handling of trust moneys.

**58.—(1)** The Secretary to the Treasury or any trust agent appointed under section 57(6) may invest trust money for such periods, and on such terms and conditions as are consistent with sound trust investment practice.

(2) No legal action shall lay against the Secretary to the Treasury or against the Government in respect of the investment or non-investment of trust money.

Operation of  
trust accounts

Investment of  
trust account  
money

(3) When any trust account money becomes payable or repayable to the depositor or other person entitled thereto, there shall be—

(a) added thereto, an amount of interest certified by the Secretary to the Treasury to have been earned thereon; and

(b) deducted therefrom a reasonable charge for the services of the Secretary to the Treasury in accordance with Treasury Instructions.

(4) Subsections (2) and (3) shall apply to an agent appointed under section 57(6) in the same manner as if the agent were the Secretary to the Treasury.

Oversight of  
the Trust  
Fund and  
trust accounts

**59.**— (1) The Secretary to the Treasury shall provide financial oversight of the Trust Fund and trust accounts.

(2) The controlling officer or the designated officer of the organization responsible for a trust account shall submit reports to the Secretary to the Treasury in accordance with Part XI.

Unclaimed  
money-  
interpretation

**60.** In sections 61 to 69, unless the context otherwise requires—

“holder” includes—

(a) a bank and a financial institution, carrying on business in Malawi;

(b) a person, partnership, company and corporation carrying on business in Malawi; and

(c) the Secretary to the Treasury, in respect of the Trust Fund and trust accounts;

“owner” means the person entitled to any unclaimed money, and includes his executor, administrator, assignee, lawful attorney or agent; and

“unclaimed money” means, subject to sections 61 and 67, all principal and interest money, dividends, bonuses, profits and other sums of money whatsoever owing to any owner which, at any time before or after the coming into force of this Act, have been in the possession of any holder for a period of six years or more after the time when the money became payable, and in respect of which no claim has been made by the owner against the holder.

Period after  
which money  
becomes  
unclaimed  
money

**61.** The following money deposited with a holder shall become unclaimed money within the meaning of this Act at the following times, whether or not the money has at any prior time become payable—

(a) money deposited so as to bear interest for a fixed term, at the expiration of six years from the date when such fixed term expired;

(b) money deposited so as to bear interest without any limitation of time, at the expiration of twenty-five years from the date when the account was last operated on by the customer; and

(c) money deposited in a current account, at the expiration of six years from the date when the account was last operated on by the customer.

**62.**—(1) Every holder shall, on 1st April in each year, enter in a register to be kept by such holder at his principal office in Malawi, in the form provided in the *Second Schedule*, all unclaimed money held by the holder in Malawi at the time of making the entry.

Register of  
unclaimed  
money  
*Second  
Schedule*

(2) From and after 8th April in each year, the holder shall open the register for public inspection during ordinary business hours upon payment of a fee determined by the Secretary to the Treasury.

(3) On ceasing to carry on business in Malawi, a holder shall deposit the register in the custody of the Secretary to the Treasury and pay all unclaimed money to the credit of the Consolidated Fund.

**63.** A holder shall, not later than 15th April in each year, or such later date as the Secretary to the Treasury may approve in writing—

(a) furnish to the Secretary to the Treasury, a copy of the register kept under section 62(1); and

(b) send to every person in respect of whom any such entry was made as the owner of unclaimed money a notice in writing specifying the amount of money that is held as unclaimed money.

Holder to  
notify entry  
to Secretary  
to the  
Treasury and  
owner

**64.**—(1) All unclaimed money not paid by a holder to the owner within three months after the notice prescribed by section 63 is given, shall be paid by the holder to the credit of the Consolidated Fund, and the holder shall thereupon be relieved from all further liability in respect of the money so paid.

Payment of  
unclaimed  
money  
to the  
Consolidated  
Fund

(2) All money payable to the credit of the Consolidated Fund in accordance with this section shall be recoverable in any court of competent jurisdiction as a debt due to the Government.

**65.** Where a person makes a demand of any unclaimed money within six years of the money being paid into the Consolidated Fund under section 64, the Secretary to the Treasury shall, on being satisfied that the person is the owner of the money demanded, order payment of the money to the person and the payment shall be a statutory expenditure.

Secretary to  
the Treasury  
to pay to  
claimant

Examination  
of accounts

66.— (1) The Secretary to the Treasury may, at any time, examine any register kept by a holder under section 62 and any account of the holder relating to unclaimed money, and may, for that purpose, require the production of any record relating to such money.

(2) The Secretary to the Treasury or any officer authorized by the Secretary to the Treasury shall, at all times, have full and free access to all records of unclaimed money and have the right to make copies.

(3) Every person shall, where requested by the Secretary to the Treasury, furnish in writing any information which may be in that person's knowledge, or produce any record in the person's possession or control that relates to money which is or may be unclaimed money.

(4) Where any error is found in any register or account or notice sent to the owner, or copy of any such document, the Secretary to the Treasury may direct that the error be corrected.

(5) The Secretary to the Treasury and every officer authorized by the Secretary to the Treasury, shall maintain secrecy over any matter which comes to the knowledge of the Secretary to the Treasury or the officer in the course of the inspection under this section, and shall not communicate any such matter to any person, except for the purposes of implementing this Part.

(6) A person who fails to comply with this section commits an offence and shall, upon conviction, be liable to a fine of K10,000,000 and, in the case of a natural person, to imprisonment for five years.

Unclaimed  
trust money

67. (1) Any trust money together with interest, if any, that is unclaimed for a period of three years after having become repayable or payable to a depositor or any other person entitled thereto shall, after due inquiry and publication of a notice in the *Gazette* and two newspapers of nationwide circulation, be transferred to the Consolidated Fund.

(2) Where trust money deposited into the Consolidated Fund under subsection (1) is claimed within six years of being so transferred and the Secretary to the Treasury is satisfied that the money is payable to the claimant, the Secretary to the Treasury shall pay the money to the claimant together with any interest accrued thereon in accordance with section 58(3)(a) but subject to section 58(3)(b).

**68.** Where any unclaimed money paid to a claimant is subsequently claimed by another person, the Secretary to the Treasury shall not be responsible for the payment of the money, but that person may have recourse against the claimant to whom the Secretary to the Treasury paid the money.

Responsibilit  
y to second  
claimant

**69.** Where a holder defaults on an obligation under sections 62, 63 or 64, the holder and every director, manager, secretary and other officer of the holder who knowingly and willfully authorizes or permits the default, commits an offence and shall, upon conviction, be liable to a fine of K50,000 for every day during which the default subsists.

Offences and  
penalty

#### PART VIII—BORROWING, LOANS AND GUARANTEES

**70.** The Government may only borrow money in accordance with this Act and under an Act authorizing such borrowing.

Government  
not to borrow  
except under  
an Act

**71.—** (1) The Secretary to the Treasury shall prepare and submit to the Minister, a medium-term debt management strategy for the management of public debt.

Debt  
management  
strategy

(2) The strategy under subsection (1) shall ensure—

(a) that the financing needs and the repayment obligations of the Government are met on a timely basis;

(b) that borrowing cost to the Government is as low as possible over medium to long term, consistent with a prudent degree of risk;

(c) development of the domestic debt market; and

(d) that any other action considered to impact positively on public debt is pursued.

(3) The medium-term debt management strategy shall be based on the principles of economic, fiscal and financial policy set out under Part IV and shall take into account—

(a) the cost and risk embedded in the current debt portfolio;

(b) future borrowing and debt requirements of the Government;

(c) the macro-economic framework of Malawi;

(d) prevailing market conditions; and

(e) any other factors that may be relevant for the development of the medium-term debt management strategy.

(4) The medium-term debt management strategy shall include guidelines or ranges for acceptable market risks in the debt portfolio and planned borrowings and other debt management activities to promote development of the domestic debt market in Malawi.

(5) The Secretary to the Treasury shall update the medium-term debt management strategy, at least once every year, and submit the update to the Minister.

(6) The Minister shall not later than 31st December review the medium-term debt management strategy or updates under subsection (5) and submit the strategy or updates to Cabinet for approval.

(7) The Minister shall, within twenty-eight days after Cabinet approval, publish in the Gazette, the approved medium-term debt management strategy or updates to the strategy, as the case may be.

(8) Upon approval of the medium-term debt management strategy by Cabinet, all Government borrowing and other debt management operations shall be undertaken in compliance with the medium-term debt management strategy.

Annual  
borrowing  
plan

72.—(1) The Secretary to the Treasury shall, not later than 31st March, prepare an annual borrowing plan to meet the aggregate borrowing requirements of the Government for the next financial year.

(2) The annual borrowing plan shall include—

- (a) planned borrowing operations over the year;
- (b) borrowing instruments to be used; and
- (c) the indicative timing of the borrowings.

(3) The Minister shall not later than 30th April submit the annual borrowing plan to Cabinet for approval.

(4) The annual borrowing plan shall be updated at least once every six months.

(5) The Minister shall, within twenty-eight days of approval, publish in the *Gazette*, the annual borrowing plan and any updates thereto.

Instrument of  
loan  
agreement

73. Every loan raised under this Part shall be in the name of the Republic of Malawi, and every document required to be signed evidencing the terms of the loan shall be executed by the Minister or by any other person authorized in writing by the Minister.

**74.**—(1) The Minister may borrow by way of term loan within Malawi or elsewhere, as the National Assembly shall determine by an authorizing Act, not more than such sums of money as that Act authorizes.

Minister may  
borrow when  
authorized

(2) Prior to raising a loan, the Minister shall—

- (a) ensure that the raising of the loan is in the public interest;
- (b) ensure that the borrowing is fiscally responsible in accordance with section 25;
- (c) ensure that the borrowing is consistent with the Government economic and fiscal policy;
- (d) satisfy himself that the Government has or is likely to have, based on current projections, the financial ability to meet all obligations under the loan agreement including future loan payments;
- (e) in the case of an external debt, consult the Reserve Bank of Malawi in accordance with section 42 of the Reserve Bank of Malawi Act; and
- (f) obtain a written legal opinion of the Attorney General on the legal aspects of the loan agreement.

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(3) All money received by the Government under a loan agreement shall be paid into an account within the Consolidated Fund, and the proceeds shall only be expended for the purposes for which the money was borrowed.

(4) All principal, interest and other money payable under the loan agreement shall be a charge on the public revenues of Malawi and on the Consolidated Fund or such other fund or account as the Minister determines, and shall be statutory expenditure payable at the time or times provided in the loan agreement.

**75.**—(1) When exercising power to borrow under section 74, the Minister may, with the approval of Cabinet and after consulting the Secretary to the Treasury, raise a loan in a currency other than that of Malawi.

Provisions for  
general  
borrowing

(2) When an Act authorizing the borrowing of money, other than from a foreign government or an international agency, comes into force and the Minister decides to raise a loan accordingly, subject to any regulation that provides for the same, the provisions of Part II of the *Third Schedule* shall apply.

*Third  
Schedule*

**76.**—(1) The Minister may on-lend to another body, including a statutory body or state-owned enterprise, under a written subsidiary loan agreement, such amounts of money obtained through a loan, on

Subsidiary  
loan  
agreement

such terms and conditions as are specified in the subsidiary loan agreement.

(2) The Minister shall ensure that money on-lent under subsection (1) is repaid in accordance with the terms and conditions of the on-lent loan agreement and shall submit periodic reports on the status of subsidiary loans to the National Assembly.

Borrowing on overdraft

**77.**— (1) The Minister may borrow money from the Reserve Bank of Malawi by way of overdraft to meet expenditure that has been appropriated, and in anticipation of revenue payable into the Consolidated Fund.

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(2) Where the Minister borrows money under subsection (1), the borrowing shall comply with section 39 of the Reserve Bank of Malawi Act.

Treasury Bills

**78.**— (1) The Secretary to the Treasury may, with the prior approval of the Minister, borrow for and on behalf of the Government, by the issuance of Treasury Bills payable at the Reserve Bank of Malawi, sums not exceeding the sum prescribed in paragraph 44 of the *Third Schedule* or such further sums as may be directed by the Minister in accordance with a resolution of the National Assembly.

Third Schedule

(2) The principal moneys represented by the Treasury Bills issued under this section shall form part of the public debt.

Third Schedule

(3) Subject to any other written law providing for the same, the rules and procedures for the issuing and management of Treasury Bills shall be as prescribed in Part V of the *Third Schedule*.

Borrowing by stocks, bonds or promissory notes

**79.**— (1) Where the Minister determines it necessary to supplement Government revenue, the Minister may raise money by the issuance of stocks, bonds or promissory notes not exceeding the aggregate amount as may be authorized by an Act of Parliament.

Third Schedule

(2) The principal moneys and interest represented by stocks, bonds and promissory notes issued under this section shall form part of the public debt.

(3) All expenditure in connection with the raising of such loans may, if the Minister so directs, be paid out of the principal moneys raised.

(4) Subject to any other written law providing for the same, the terms and conditions on which any stocks, bonds or promissory notes may be issued are prescribed in the *Third Schedule*.

(5) The Reserve Bank of Malawi is appointed Registrar of all registered stocks, bonds and promissory notes issued under this section.

**80.**—(1) The Minister may, in the public interest, enter into derivative transactions, either directly or indirectly through an intermediary, but only within the framework and limits of the budget policy statement and the medium-term debt management strategy in a manner and on such terms and conditions prescribed by regulations made under this Act.

(2) For purposes of subsection (1) derivative transactions include—

(a) financial swaps and other derivative transactions entered into for the purposes of managing the risks of the Government under various financial transactions;

(b) offering buyback and exchange of public debt securities; and

(c) offering early repayment of a loan before the date of maturity of the loan.

(3) Money required to be paid by the Government under a derivative transaction entered into under this section shall be a charge—

(a) on the Consolidated Fund; or

(b) where the Minister so determines, any other public fund established for the purpose of making such payments.

(4) Any expense incurred in connection with a derivative transaction entered into under this section shall be a charge on the Consolidated Fund and a protected expenditure.

(5) The Minister shall, every three months, publish a notice in the *Gazette* of the derivative transactions entered into pursuant to this section.

**81.** The Government shall not be liable to contribute towards the payment of any debt or liability of a public body unless the Government is liable to make a contribution under any other written law, a guarantee or indemnity given under section 82, or is otherwise liable to pay to the creditor.

**82.**—(1) Subject to subsection (2), the Minister may, where the Minister determines it to be in the public interest and necessary, give a guarantee or indemnity, in writing, on behalf of the Government upon such terms and conditions as the Minister determines as appropriate, in respect of the performance of any person, body corporate, organization or statutory body, but may only do so—

(a) with the prior approval of the Cabinet; and

Derivative transactions

Liability of the Government

Power to give guarantees and indemnities

(b) where such guarantee or indemnity is consistent with section 25.

(2) The Minister shall, within seven days of giving the guarantee or indemnity, report the giving of the guarantee or indemnity to the National Assembly, if the National Assembly is in session, and if not, at the commencement of the next ensuing session.

(3) A report under subsection (2) shall—

(a) contain reasons as to why it was in the public interest and necessary to give the guarantee or indemnity; and

(b) provide an assessment of the risks associated with the guarantee or indemnity.

(4) Any money paid by the Government under a guarantee or indemnity given under this section shall constitute a debt due to the Government from the person, body corporate, organization or statutory body in respect of whom the guarantee or indemnity was given, and may be recoverable in any court.

(5) Where a guarantee is given to a body corporate, the Minister shall, in addition to matters required to be considered under subsection (1), satisfy himself that the guarantee will facilitate such body corporate in the initiation or advancement of any enterprise conducive to national economic development or growth in Malawi.

(6) A guarantee involving a financial liability shall not be binding upon the Government unless entered into in accordance with this section.

Taking and  
releasing of  
securities by  
Government

**83.—(1)** Whenever a security is taken in respect of an advance of public money, unless the Act authorizing the advance provides otherwise, the security shall be given to, and taken in the name of the Republic of Malawi.

(2) Where any security is for the time being vested in the Government, whether it has become so vested before or after the commencement of this Act, the Minister may, on behalf of the Government, exercise any powers, functions and rights including any power of disposal, and undertake and perform any liabilities in respect of, or in connection with, the security which could be exercised, undertaken, or performed by the Government.

(3) Any document purporting to be executed by the Minister under this section shall be deemed to have been duly executed on behalf of, and shall bind, the Government.

**84.**—(1) Subject to Part V, money may be expended out of any fund or account in the Consolidated Fund for the protection, preservation and improvement of any real or personal property on the security of which any money in that fund or account has been lawfully invested, whether before or after the commencement of this Act.

Expenditure  
for protection  
of public  
securities

(2) No amount shall be expended under this section in respect of any property without the specific approval of the Minister acting on the recommendation of the responsible Minister, if that amount, together with all other amounts advanced or expended in respect of that property and still outstanding, would exceed the amount of the valuation of the property.

**85.** Subject to section 35, where it is in the public interest to do so, the Minister may, on behalf of the Government on terms and conditions approved by the National Assembly, lend money to any organization whether within or outside of Malawi.

Power to lend  
money

#### PART IX—DEBT RETIREMENT FUND

**86.** There is hereby established a Debt Retirement Fund in which shall be reserved moneys for servicing public debts.

Debt  
Retirement  
Fund

**87.** There shall be deposited into the Debt Retirement Fund money—

Source of  
money for the  
Debt  
Retirement  
Fund

(a) appropriated by the National Assembly for that purpose; and

(b) from sources prescribed annually by the Minister, by Order published in the *Gazette*.

**88.**—(1) There shall be a Debt Retirement Fund Committee comprising the—

Debt  
Retirement  
Fund  
Committee

(a) Secretary to the Treasury, who shall be the Chairperson;

(b) Governor of the Reserve Bank of Malawi;

(c) Solicitor General;

(d) Secretary responsible for economic planning; and

(e) Accountant General.

(2) The Debt Retirement Fund Committee shall—

(a) recommend to the Minister, sources of funds for the Debt Retirement Fund;

(b) approve debt repayment plans;

(c) approve withdrawals from the Debt Retirement Fund; and

(d) determine the debts to be repaid from the Debt Retirement Fund.

(3) Members of the Debt Retirement Fund Committee shall attend to business of the Committee in person.

**Payments  
from the Debt  
Retirement  
Fund**

89.— (1) Money in the Debt Retirement Fund shall not be withdrawn for any other purpose other than repayment of a public debt.

(2) All withdrawals from the Debt Retirement Fund shall be made upon prior authorization by the Debt Retirement Fund Committee.

(3) The Debt Retirement Fund Committee shall authorize payments out of the Debt Retirement Fund in accordance with approved debt repayment plans.

**Records and  
reporting  
requirements**

90.— (1) The Debt Retirement Fund Committee shall maintain proper records of the income and expenditure of the Debt Retirement Fund.

(2) The Debt Retirement Fund Committee shall, by 31st December each year, submit to the Minister an income and expenditure report of the Fund for that financial year.

(3) The Minister shall, by 31st March each year, submit to the National Assembly, a report on the—

(a) sources of funds for the Debt Retirement Fund for that financial year;

(b) amount of money collected; and

(c) public debts retired in that financial year, including the amount of the debts retired.

#### PART X—STATUTORY BODIES AND STATE-OWNED ENTERPRISES

**Classification  
of statutory  
bodies and  
state-owned  
enterprises**

91. Statutory bodies and state-owned enterprises shall be classified according to their source of income as follows—

(a) semi-subvented;

(b) wholly subvented; or

(c) commercial.

**Annual  
commitments**

92.— (1) Each statutory body and state-owned enterprise shall enter into an annual performance contract with the Secretary to the Treasury by 31st March.

(2) The annual performance contract shall be reviewed by 30th September.

93.—(1) A chief executive officer of a commercial statutory body or state-owned enterprise shall, within three months before the end of a financial year, submit to the Secretary to the Treasury, a performance and management plan, including projected financial statements for the following financial year, in such form as the Secretary to the Treasury may require.

Performance,  
management  
plan and  
budget

(2) Where a subvented statutory body or state-owned enterprise seeks Government financial assistance by way of appropriation, grant, subsidy or otherwise, the chief executive officer of the subvented statutory body or state-owned enterprise shall, not later than three months before the end of the financial year, submit to the Secretary to the Treasury, a performance and management plan of the statutory body or state-owned enterprise together with estimates of revenue, expenditure and cash flows for the following financial year, in such form as the Secretary to the Treasury may require.

(3) A chief executive officer of a local authority shall, within three months before the end of a financial year, prepare and submit to the Secretary to the Treasury, through the National Local Government Finance Committee, an annual budget for the following financial year.

94.—(1) A statutory body and state-owned enterprise shall at all times maintain a revenue holding account with the Reserve Bank of Malawi which shall form part of the Treasury Single Account.

Bank  
accounts

(2) A statutory body and state-owned enterprise shall open one operating bank account with a commercial bank which shall be operated on credit ceiling authority or in accordance with Treasury Instructions.

(3) The Secretary to the Treasury may, on application by a statutory body or state-owned enterprise, and upon being satisfied that justifiable operational reasons exist, give written approval for the statutory body or state-owned enterprise to open additional operating accounts as are appropriate for the operations of the statutory body or state-owned enterprise.

(4) A statutory body or state-owned enterprise may open revenue collecting accounts with financial institutions as it determines appropriate and in accordance with guidelines issued by the Secretary to the Treasury.

(5) A statutory body or state-owned enterprise shall deposit all its revenue into the revenue holding account and shall, from time to time, transfer from the holding account to the operating account such amounts as are required for its operations.

(6) Any balance in the holding account of a statutory body or state-owned enterprise at the close of a financial year shall be applied in accordance with the Government policy on dividends and surplus.

Moneys payable to, or to be retained by, statutory bodies or state-owned enterprises

**95.**—(1) Where money is appropriated by the National Assembly for the purposes of a subvented statutory body or state-owned enterprise, such money shall be payable at such times and in such amounts as the Secretary to the Treasury determines, in accordance with the Appropriation Act.

(2) A regulatory statutory body shall retain, for its operations, such percentage of the money collected by the regulatory statutory body in a financial year, under the authority of the Act establishing the regulatory statutory body, as may be determined by the Secretary to the Treasury after consulting the regulatory statutory body.

(3) Any moneys retained by a regulatory statutory body under subsection (2) in respect of a financial year which are not expended by the end of that financial year may be expended in the subsequent financial year, subject to the budget of the regulatory statutory body.

(4) For purposes of this section a “regulatory statutory body” means a statutory body whose core mandate is to regulate and monitor a specific sector of the economy.

Borrowing on overdraft and private loans

**96.**—(1) A statutory body or state-owned enterprise may, with the prior written approval of the Minister, borrow money by way of loan or overdraft for purposes of the statutory body or state-owned enterprise, on such terms as are agreed between the statutory body or state-owned enterprise and the lender.

(2) Where a statutory body or state-owned enterprise raises a loan or overdraft pursuant to subsection (1), there shall be no liability attached to the Government unless otherwise approved by the Cabinet.

Guarantee by statutory body or state-owned enterprise

**97.**—(1) A statutory body or state-owned enterprise may only give a guarantee to its subsidiary.

(2) A guarantee shall not be given under subsection (1) unless approved in writing by the Minister.

(3) The Minister shall, before giving approval under subsection (2), ascertain with the Secretary to the Treasury the financial implications on the Government of the statutory body or state-owned enterprise giving the guarantee, and ensure that the giving of the guarantee is in the public interest.

(4) There shall be no liability attached to the Government by virtue only of the approval of the Minister given under subsection (2).

**98.**—(1) A statutory body and state-owned enterprise shall apply their resources only for the purposes specified in the Act establishing the statutory body or the memorandum and articles of association establishing the state-owned enterprise and this Act.

Application  
of resources

(2) The statutory body and state-owned enterprise shall apply the resources on programs that are strictly in line with the performance management plans of the statutory body or state-owned enterprise and shall take cognizance of value for money and efficiency.

(3) The Secretary to the Treasury shall ensure that the resources of statutory bodies and state-owned enterprises are managed efficiently and effectively and in accordance with this Act.

**99.**—(1) A statutory body and state-owned enterprise shall keep proper accounts and records of its transactions and financial position, and shall—

Accounts and  
records

(a) ensure that all payments are correctly made and properly authorized;

(b) maintain adequate internal control over its assets and other assets in its custody;

(c) ensure that liabilities are incurred in accordance with generally accepted accounting principles; and

(d) keep the accounts and records in such a way as to facilitate the preparation of financial statements required under section 100 and enable such accounts to be properly audited.

(2) The statutory body and state-owned enterprise shall retain all the accounts and records referred to in subsection (1) for at least seven years after the completion of the transactions to which they relate.

(3) The accounts and records required under subsection (1) shall be kept in accordance with generally accepted accounting practices.

**100.**—(1) Each statutory body or state-owned enterprise shall prepare and submit to the Secretary to the Treasury, quarterly financial and non-financial performance reports that are consistent with the performance management plan submitted under section 93 and the format prescribed by the Secretary to the Treasury.

Reports and  
financial  
statements

(2) The statutory body or state-owned enterprise shall, not later than 30th June each year, prepare and submit to the Auditor General

an annual performance and management report of its operations and its financial statements for the preceding financial year.

(3) The Auditor General shall review the report and financial statements submitted under subsection (2) and issue a report on the extent to which the financial statements present the financial operations and financial position of the statutory body or state-owned enterprise and whether the statutory body or state-owned enterprise complied with its performance management plan.

(4) The statutory body or state-owned enterprise shall, by 31st July each year, furnish to the Minister, the responsible Minister and the Secretary to the Treasury, the performance management report, the financial statements and the report of the Auditor General.

(5) The Minister shall lay before the National Assembly, the reports received under subsection (4) within thirty days, if the National Assembly is in session, and if the National Assembly is not in session, at the commencement of the next session.

(6) Where the performance management report or financial statement of the statutory body or state-owned enterprise is published, the report of the Auditor General shall be included in the publication.

(7) The Minister shall, before 30th September in each year, lay before the National Assembly an annual consolidated financial and non-financial report for all statutory bodies and state-owned enterprises.

Powers of  
inspection of  
the Secretary  
to the  
Treasury

**101.—** (1) Where the Secretary to the Treasury considers it appropriate or has reason to believe that a statutory body or state-owned enterprise has or may have failed to implement the performance and management plan submitted pursuant to section 93, the Secretary to the Treasury may carry out a performance review or initiate an investigation into, or inspection of, the records of that statutory body or state-owned enterprise.

(2) Where an investigation into, or inspection of, the records of a statutory body or state-owned enterprise is carried out, the Secretary to the Treasury shall have full and free access to all accounts and records of the statutory body or state-owned enterprise and any subsidiary of the statutory body or state-owned enterprise that relate, directly or indirectly to—

(a) the collection, receipt, expenditure and issuance of money of the statutory body, state-owned enterprise or subsidiary;

(b) the receipt, custody, disposal, issuance or use of public resources or other property of, or property in the custody of the statutory body, state-owned enterprise or subsidiary; and

(c) the incurring of any liability by the statutory body, state-owned enterprise or subsidiary.

(3) The Secretary to the Treasury may, by written instrument, delegate to an officer the powers under subsection (1).

(4) The Secretary to the Treasury and any delegated officer shall, except in the performance of the duties, functions and powers under this Part or pursuant to a court order, keep confidential and not disclose to any person any information obtained in the course of conducting an investigation or inspection under this section.

**102.**— (1) Where Government establishes a state-owned enterprise or acquires shares in any entity, the shares shall be registered in the name of the Secretary to the Treasury.

Investment  
and reporting  
requirements

(2) Where a State-owned enterprise is wholly owned by Government, the Secretary to the Treasury shall be the principal shareholder.

(3) A statutory body or state-owned enterprise shall not be dissolved or participate in any acquisition, merger, investment or disinvestment without prior written approval of the Secretary to the Treasury.

(4) A chief executive officer of a statutory body or state-owned enterprise shall, within fourteen days of making an investment in its subsidiary, report the investment to the Secretary to the Treasury.

(5) The Secretary to the Treasury may issue Treasury Instructions prescribing investment guidelines and reporting requirements.

**103.**— (1) Subject to the principles of responsible fiscal management in section 25, every statutory body and state-owned enterprise shall pay into the Consolidated Fund, any—

(a) dividend due from the state-owned enterprise to the Government, and

(b) money determined to be a surplus for the purposes of the statutory body.

Payment of  
dividends and  
surplus funds  
to the  
Consolidated  
Fund

(2) The statutory body or state-owned enterprise shall remit the dividend or surplus into the Consolidated Fund in accordance with the Government policy on dividends and surplus.

**104.**— (1) The chief executive officer of a statutory body or state-owned enterprise shall report to the Minister, the responsible Minister and the Secretary to the Treasury, in writing, immediately upon the occurrence of a significant event which adversely affects the financial position of the statutory body or state-owned enterprise.

Reporting on  
adverse  
occurrences

- (2) The report submitted pursuant to subsection (1) shall—  
 (a) specify the nature of the event;  
 (b) quantify, where practicable, the likely effect of the event on the statutory body or state-owned enterprise; and  
 (c) stipulate the steps taken, or proposed to be taken to rectify or mitigate the effects of the event.

Reporting on investments where Government is minority shareholder

**105.**—(1) The Minister shall prepare and lay before the National Assembly, not later than three months after the end of each financial year, a consolidated report summarising the extent of Government involvement or funding of investments in body corporations where Government is a minority shareholder.

- (2) The report under subsection (1) shall include information on—  
 (a) the dates of incorporation and objects of each corporation;  
 (b) value and amount of the Government shareholding, directly or indirectly;  
 (c) changes in the shareholding of any of the corporations during the financial year;  
 (d) amount of funding in the form of grants or subsidies provided by the Government during the financial year;  
 (e) amount of loans made by the Government to the corporations;  
 (f) amount of guarantees issued by the Government during the financial year in respect of the corporations;  
 (g) cumulative amount of undischarged loans and guarantees;  
 (h) amount of profit or loss for the financial year;  
 (i) amount of any revenue received by the Government from the corporations during the financial year, including dividends, interest and proceeds from any divestiture of assets;  
 (j) amount of payments made or losses incurred by the Government during the financial year to meet contingent liabilities as a result of loans or guarantees, including payments made in respect of guarantees, loan write-offs or waiver of interest on loans with regard to investments in the corporations; and  
 (k) assessment of the financial and related non-financial performance of the corporations for the financial year.

- (3) Once every three years, the Minister shall prepare and lay before the National Assembly, a report on the assessment of the

Government's continued involvement or investment in, or funding of corporations other than statutory bodies and state-owned enterprises.

(4) The Minister shall submit copies of the reports referred to in subsections (1) and (3) to the Auditor-General.

(5) Where the Government has non-controlling interest in an establishment, financial management and reporting of the entity shall be in accordance with the legislation governing the entity or the memorandum and articles of association of the entity and standard reporting practices of the industry.

#### PART XI — FINANCIAL REPORTING

**106.**—(1) A controlling officer shall, within one month of the end of each quarter, except the last quarter of every financial year, prepare and submit to the Secretary to the Treasury, quarterly reports and summaries of receipts and payments including receipts brought to charge, from the beginning of the financial year to the end of that quarter in the form specified by the Secretary to the Treasury.

Quarterly  
reports and  
summaries

(2) Imprests unaccounted for at the end of the quarter shall not be included in the payments, but shall be shown as balances in hand.

**107.**—(1) Every controlling officer responsible for a vote shall, not later than 31st May each year, prepare and submit to the Secretary to the Treasury in accordance with section 26 and applicable Treasury Instructions, the financial statements for that vote for that financial year.

Financial  
statements

(2) The Secretary to the Treasury shall prepare in accordance with section 26, and submit to the Auditor General as soon as practicable, but not later than 30th June each year, the consolidated financial statements for all votes for that year in the form specified in the *Fourth Schedule*, including statements of any such funds and accounts as are required to be included in the financial statements by this Act or any other written law.

Fourth  
Schedule

(3) The Auditor General shall examine the financial statements and provide a written report to be attached to the financial statements, and the report shall state whether, in the opinion of the Auditor General the financial statements—

(a) have been prepared in accordance with this Act, any other related written law and applicable generally accepted accounting practices; and

(b) present fairly the matters required by this Act, any other related written law and applicable generally accepted accounting practices.

(4) Where the Auditor General is not able to provide a report as required by subsection (3), the Auditor General shall state the reasons thereof.

(5) The Auditor General shall, as soon as practicable but not later than 30th September each year submit the financial statements together with the report issued under subsection (3) to—

- (a) the President;
- (b) the Speaker of the National Assembly;
- (c) the Minister; and
- (d) the Secretary to the Treasury.

(6) The Minister shall, forthwith, lay before the National Assembly the report received under sub section (5) if the National Assembly is in session, and if not in session, at the commencement of the next ensuing session.

(7) The Minister shall cause the annual financial statements to be published in the *Gazette* and at least two newspapers of nationwide circulation in such summarized form as the Minister may determine.

Annual reports

**108.**—(1) A controlling officer shall, as soon as practicable, but not later than 31st July each year, submit to the Minister and the responsible Minister an annual report in a form approved by the Minister.

(2) The Annual report submitted under subsection (1) shall include information relevant to that Ministry taken from the financial statements required under section 107, and the Secretary to the Treasury shall certify the information contained in the report as being a true extract from the financial statements.

(3) On receiving the report under subsection (1) the Minister shall forward a copy to the President and at the same time shall lay a copy before the National Assembly if it is in session, and if it is not in session, at the commencement of the next ensuing session.

## PART XII — DISPLINE AND OFFENCES

Improper conduct and disciplinary measures  
Cap. 1:03

**109.**—(1) Subject to the Constitution and the Public Service Act, where the Secretary to the Treasury or controlling officer has reason to believe that a controlling officer or an officer is engaging in or has engaged in improper conduct within the meaning of subsection (4)—

(a) in the case of a controlling officer, the Secretary to the Treasury shall—

(i) take such measures as may be prescribed in regulations made under this Act; or

(ii) refer the matter to the Secretary to the President and Cabinet or the relevant body with recommendation to take appropriate disciplinary measures against the controlling officer; or

(b) in the case of an officer, the controlling officer shall—

(i) take appropriate measures to discipline the officer; or

(ii) refer the matter to the relevant office or body with recommendation to take appropriate disciplinary measures against the officer.

(2) The Secretary to the Treasury shall, where the Secretary to the Treasury has reason to believe that a controlling officer has been or may have been in breach of this Act, recommend to the Secretary to the President and Cabinet that the controlling officer be suspended from all duties and responsibilities in the public service, in accordance with applicable law, pending investigations.

(3) Where the Secretary to the Treasury has reason to believe that a chief executive officer of a statutory body or state-owned enterprise is engaging in or has engaged in improper conduct within the meaning of subsection (4), the Secretary to the Treasury shall refer the matter to the relevant body with recommendation to take appropriate disciplinary measures against the chief executive officer in accordance with the applicable terms and conditions of appointment.

(4) A controlling officer, chief executive officer or an officer engages in improper conduct where the controlling officer, chief executive officer or officer—

(a) fails to comply with this Act;

(b) fails to put in place effective systems of risk management, internal controls and internal audit;

(c) refuses or without reasonable excuse, fails to attend an inspection or inquiry under this Act at a time and place required of that person by the Secretary to the Treasury;

(d) over-commits or overspends funds under that person's control;

(e) fails to conform or comply with financial and operational procedures laid down in Treasury Instructions or any other applicable guidelines;

- (f) undermines any financial management procedures or controls that apply to the public body;
- (g) fails to maintain proper accounting records or assets inventories;
- (h) fails, without justifiable reason, to pay eligible and approved bills promptly in circumstances where funds for settlement of the bills are provided;
- (i) fails to comply with timelines on submission of performance management plans and budgets;
- (j) fails to comply with reporting timelines under this Act;
- (k) fails to implement commitments in annual performance commitment targets;
- (l) fails to service a debt obligation;
- (m) incurs arrears, without taking necessary precautions to avoid incurrence of the arrears;
- (n) fails to resolve findings and implement recommendations of internal or external auditors within the time stipulated by the Audit Committee or the Secretary to the Treasury;
- (o) fails to report to the Secretary to the Treasury any case of apparent waste or extravagance; or
- (p) fails, without justifiable reason, to implement recommendations of the Secretary to the Treasury or audit committee.

(5) A person subject to disciplinary action under this section may be liable to sanctions under section 110.

(6) For purposes of this section, "arrears" means all unpaid bills, inclusive of contractual and statutory obligations, after the end of a financial year.

Offences and  
penalty

**110.—(1) A person who—**

- (a) refuses or fails to produce or submit any information in his possession when required to do so under this Act;
- (b) issues a local purchase order outside the financial management information system used by the Government;
- (c) makes or permits expenditure that is unlawful, unauthorised, irregular or wasteful;
- (d) misuses or permits the misuse of any public asset or property which results in the loss of the public asset or property;

- (e) contravenes, causes another person to contravene or knowingly permits another person to contravene a provision of this Act;
  - (f) refuses or neglects to pay any public money or trust money into a Fund or account into which it is payable;
  - (g) expends funds where there is no appropriation permitting such expenditure;
  - (h) makes any statement or declaration or gives any information, certificate or document required under this Act knowing it to be false or misleading;
  - (i) implements or varies capital investments without approval of the Secretary to the Treasury;
  - (j) fails to exercise controls over the receipt, custody or utilization of public resources;
  - (k) conceals or destroys information that is required to be recorded under this Act;
  - (l) alters or obliterates data maintained under this Act;
  - (m) fails to account for assets in that person's custody or under the control of that person;
  - (n) opens or causes to be opened a bank account for official use in contravention of this Act;
  - (o) does any act or omission for the purpose of procuring for that person or for any other person or organization—
    - (i) the improper payment of public money or trust money; or
    - (ii) the improper use of public money; or
  - (p) fails to meet any obligation imposed on that person under this Act,
- commits an offence.

(2) A person who commits an offence under subsection (1) shall, upon conviction, be liable to a fine of K50,000,000 or the financial gain derived from the offence, whichever is greater, and to imprisonment for twelve years.

**111.** A person who contravenes a provision of this Act for which a specific penalty is not provided, shall be liable, upon conviction, to a fine of K10,000,000 or the financial gain derived from the offence, whichever is greater, and to imprisonment for five years.

General  
penalty

**112.—(1)** A person who has knowledge of any circumstances which may cause that person to believe that an improper conduct or an offence under section 109 or 110 is about to be committed or may

Obligation to  
report

(5) Where the Minister refers a case to Cabinet under subsection (4)(b), the Cabinet shall approve or decline to approve the proposed write-off.

(6) Particulars of any approved write-offs granted under this section shall be reported in the financial statements and published in the *Gazette*.

(7) The Minister may, subject to approval by Cabinet and by notice published in the *Gazette*, amend the thresholds prescribed under subsection (1).

**114.—(1)** An officer shall not act in a manner, or be in a position, where the personal interest of that officer conflicts, or is likely to conflict, with the performance of the functions of that officer under this Act.

Conflict of  
interest

(2) An officer who fails to disclose a conflict of interest commits an improper conduct.

**115.—(1)** The Minister may make such regulations as are necessary or expedient for the purpose of giving full effect to this Act in general, and for the better control and management of public money and public resources.

Regulations

have been committed shall report the circumstances to the Secretary to the Treasury.

(2) A person who lodges a report under subsection (1) shall not be penalized in any way, whether the allegation is proved or not, unless there is sufficient proof that the person was acting in bad faith.

(3) For the purpose of this section, a person is penalized if the person is dismissed from employment, discriminated against, made the object of reprisal or other form of adverse treatment or is denied any appointment, promotion or advantage that otherwise would have been provided but for the report.

#### PART XIII—MISCELLANEOUS PROVISIONS

##### Write-off of losses

**113.**—(1) The Minister may, by Order published in the *Gazette*, prescribe thresholds for approval of amounts that may be written-off as losses.

(2) A controlling officer shall report promptly, in the prescribed form, to the Secretary to the Treasury, any—

- (a) losses or deficiencies of public moneys;
- (b) irrecoverable amounts of revenue;
- (c) irrecoverable debts and overpayments;
- (d) value of lost, deficient, condemned, unserviceable or obsolete public assets; and
- (e) investment to be written-off.

(3) The Secretary to the Treasury may, following any investigation that the Secretary to the Treasury considers appropriate in each particular case—

- (a) approve the write-off if the amount is within the threshold that can be approved by the Secretary to the Treasury; or

- (b) refer to the Minister for approval.

(5) Where the Minister refers a case to Cabinet under subsection (4)(b), the Cabinet shall approve or decline to approve the proposed write-off.

(6) Particulars of any approved write-offs granted under this section shall be reported in the financial statements and published in the *Gazette*.

(7) The Minister may, subject to approval by Cabinet and by notice published in the *Gazette*, amend the thresholds prescribed under subsection (1).

**114.**—(1) An officer shall not act in a manner, or be in a position, where the personal interest of that officer conflicts, or is likely to conflict, with the performance of the functions of that officer under this Act.

Conflict of interest

(2) An officer who fails to disclose a conflict of interest commits an improper conduct.

Regulations

**115.**—(1) The Minister may make such regulations as are necessary or expedient for the purpose of giving full effect to this Act in general, and for the better control and management of public money and public resources.

(2) Without limiting the generality of subsection (1), the regulations may provide for—

(a) registration, issuance, transfer, conversion, replacement, payment for and redemption of stocks or bonds;

(b) payment of interest, repayment of principal and transfer of stock or bonds in the case of persons who are or may be under any legal liability;

(c) replacement of lost or damaged certificates;

(d) registers of stockholders or bondholders upon whose stocks or bonds the interest has been unclaimed;

(e) fees and charges for any services rendered pursuant to this Act;

(f) periodic closure of any register provided for in this Act;

(g) control and management of investments and disinvestments in state-owned enterprises and other private corporations; and

(h) use, management and control of public assets.

**116.**—(1) The Secretary to the Treasury may issue Treasury Instructions setting out detailed procedures for any matter prescribed by this Act to be so prescribed for the better control and management of public moneys and public resources.

Treasury and Desk Instructions



2. Fiscal forecasts required under Part IV of this Act shall include—
- forecast information with respect to the statements required under section 27;
  - forecast information with respect to the current year fiscal update and comparative budgeted and actual (where available) or provisional (where actual not available) figures for the immediately preceding financial year; and
  - details of fiscal risks and, where they cannot be quantified, a statement of possible impacts and mitigation measures.

#### PART II—REPORTING REQUIREMENTS

1. Any forecast or statement required under Part IV of this Act shall include details of—
- the total domestic revenues;
  - all other revenue;
  - the total grants;
  - the total expenses;
  - net acquisition of non-financial assets;
  - overall fiscal balance; and
  - total borrowing (domestic and foreign borrowing).

#### SECOND SCHEDULE REGISTER OF UNCLAIMED MONEY

(ss.62)

Register of Unclaimed Money held by

(insert name of holder)

<i>Name, Occupation and last known Address of Owner</i>	<i>Total Amount due to Owner</i>	<i>Description of Unclaimed Money</i>	<i>Date of Last Claim</i>



## THIRD SCHEDULE

(ss.75,78 &amp; 79)

## PROVISIONS FOR GENERAL BORROWING

## PART I—PRELIMINARY

1. In this Schedule, unless the context otherwise requires— Interpretation

“book-entry securities” means securities which are issued, held or transferred through the book-entry system;

“book-entry system” means a system whereby Government securities are issued, held or transferred by crediting or debiting, as the case may be, the securities accounts maintained by the Registrar without requiring the issuance, holding, or transfer of paper, and if transfer certificates are issued immobilizing the certificates in a central depository;

“holder” means a person registered as a holder of any stock;

“Registrar” means the Registrar in whose register any stock issued under the provisions of this Schedule is registered; and

“securities” means Treasury Bills, Treasury Notes, Treasury Bonds, local registered stock, debentures, promissory notes, and other long-term debt instruments issued by, or on behalf of, the Treasury, from time to time.

## PART II—TERMS AND CONDITIONS OF LOANS

2. Where the Minister decides to raise a loan, the Minister shall borrow in accordance with the annual borrowing plan.

Compliance  
with debt  
management  
strategy, etc

3. All money borrowed under the authority of an authorizing Act shall be received into the Consolidated Fund or into such other fund or account as the authorizing Act provides and may be expended from that fund or account only in accordance with an Appropriation Act or as statutory expenditure for which provision is made in this Schedule or the authorizing Act.

Receipt and  
expenditure  
of loan  
money

4. Securities may be issued and registered for any amount borrowed under this Schedule, and where securities are issued, the securities shall be known as Malawi Government securities.

Issue of  
securities

5. Unless expressly stated to the contrary, no securities shall be issued with a condition that the interest derived therefrom shall be exempt from income tax.

Securities not  
to be free of  
income tax

Loans to be charged on public revenue	6. All principal sums and interest payable under any securities shall be a charge upon the public revenues of Malawi and to be payable as statutory expenditure out of the Consolidated Fund or such other fund or account as the Minister thinks fit.
Security converted for lenders	7. All money borrowed and all securities issued under this Schedule and an authorizing Act shall, so far as concerns the lender or holder, be deemed to have been lawfully borrowed, issued or converted within the powers conferred by this Schedule and that authorizing Act, and no such lender or holder shall be concerned to inquire whether or to what extent authority has been given or occasion has arisen for the exercise of any such powers.
Prior securities not affected	8. Neither the authority to borrow any money given by any authorizing Act nor the exercise of any such authority under this Schedule and that Act shall alter or affect or vary any security theretofore issued.
Saving of existing claims	9. Nothing in this Schedule and nothing done under this Schedule, except by agreement, shall take away, abridge, or prejudicially affect any right or interest, by way of priority or otherwise, of any person in or against the Consolidated Fund, or the public revenues of Malawi, or any of them, or any remedy which any person would have had or might have exercised in respect of any such right or interest if this Act had not been passed.
Authorized investment for trust funds	10. Securities issued under this Act shall be an authorized investment for trust funds and the relevant provisions of any written law relating to trustee investments shall apply in respect of such securities accordingly.
Payment of loan before due date	11. The Minister may repay the whole or part of any loan before the due date, on such terms as he considers appropriate.
Agreement with Registrar as to securities	<p>12.—(1) The Minister, acting on the advice of the Cabinet, may from time to time, enter into an agreement with any Registrar in or outside Malawi providing for all or any of the following matters—</p> <ul style="list-style-type: none"> <li>(a) for registering any securities in a register kept by the Registrar at his principal place of business, and for issuing certificates of title relating to any such securities;</li> <li>(b) for managing the creation, registration, and issue of securities;</li> <li>(c) for receiving any money borrowed under this Schedule;</li> <li>(d) for paying such money into the Consolidated Fund, or into such other fund or account as is duly appointed for that purpose;</li> </ul>

- (e) for issuing script for deposits on loans;
- (f) for managing transfer of securities;
- (g) for paying interest on securities;
- (h) for reissuing, or re-registering securities, and reissuing certificates of title;
- (i) for redeeming securities;
- (j) for generally conducting all business connected with securities; and
- (k) for the protection and remuneration of the Registrar under and in respect of any such agreement.

(2) Every agreement made with any Registrar pursuant to this paragraph shall be as valid and have effect as if the terms thereof had been set forth and enacted by this Act, and all remuneration payable under any such agreement to any Registrar shall be statutory expenditure and be charged upon and be paid out of the Consolidated Fund or such other fund or account as the Minister determines appropriate.

13. Each Registrar shall keep a register of securities in which shall be entered, with respect to every holder of securities registered therein, the following particulars—

- (a) the full name and address of the holder;
- (b) the amount of securities held by the holder;
- (c) the rate of interest payable in respect of those securities;
- (d) the date or dates in each year on which the interest is payable;
- (e) the due date for repayment of the principal; and
- (f) such other special conditions as apply to those securities.

14. Any person who desires to lend to the Minister any money on the security of securities under this Schedule may apply to the appropriate Registrar in the prescribed form, and that Registrar shall, on payment of the price of the securities and subject to the provisions of this Schedule, register that person in the register prescribed under paragraph 13.

15. No notice of any trust in respect of any securities or certificate of title shall be entered in any register or be receivable by any Registrar, and no liability shall attach to the Government or to any Registrar, by reason of any express, implied or constructive notice of any trust affecting any such securities or certificate of title.

Registrar of  
securities

Application  
for securities

No notice of  
trust to be  
received or  
registered

Registered  
holder of  
securities

**16.** A person whose name is for the time being on any register as the holder of any securities shall be deemed to be the holder of the securities for that amount standing to the credit of that person in the register, with the right, subject to the provisions of this Schedule, to receive the interest thereon.

Certificates of  
title to  
securities

**17.** (1) A Registrar shall, on application in writing by the registered holder of any securities registered in the Registrar's register, issue to the applicant a certificate of title in the prescribed form certifying that the applicant is the registered holder of the securities referred to in it, being the whole or any part of the amount of securities of which the applicant is the registered holder.

(2) The certificate of title shall be conclusive evidence of the ownership of the securities to which it relates.

(3) Where the Registrar is satisfied that a certificate of title has been lost or destroyed, the Registrar may, on such terms and subject to such conditions as may be prescribed, issue a substitute certificate of title with the word "substituted" stamped or written on it, and shall record the issue of the substitute certificate in the register accordingly.

(4) A substitute certificate of title shall have the same effect to all intents and purposes as the original certificate of title for which it is substituted.

(5) The Registrar shall enter in the register full particulars of the issue of certificates of title under this paragraph.

(6) The transfer, whether by delivery or otherwise, of a certificate of title shall not operate as a transfer of the legal or equitable interest of the holder in the securities to which it relates, and no dealing with any securities to which the certificate of title relates shall be recorded by the Registrar unless and until the certificate of title has been produced to and cancelled by the Registrar.

Infants may  
be registered  
as holders of  
securities

**18.** A child of the age of ten years or more may be registered as a holder of securities under this Schedule and may apply for the issue of certificate of title in relation to the securities, or may execute a memorandum of transfer of the securities, which shall have effect in all respects as if the child were of the age of eighteen years.

Application  
of book-entry  
system

**19.** Where Government securities are issued, held or transferred in book-entry form, the Registrar—

(a) may issue to the security-holder, once a month, a statement which shall indicate the type of security, its nominal value, the date of its acquisition or disposal, its maturity date and a running nominal balance.

(b) may issue an additional statement requested by a security-holder during the month but the additional statement shall be provided at a fee which reflects the cost of producing the statement, as the Registrar may determine;

(c) may issue a paper certificate to a security-holder and such certificate shall be registered in the name of the Registrar or his appointed agent as nominee and deposited in a central depository for depositing such certificates and established for that purpose; and

(d) shall not be liable for any claim or demand which may be brought against the Registrar by reason or in consequence of book-entry securities information acquired from the security-holder and used to unlawfully acquire or transfer book-entry securities.

**20.**—(1) The registered holder of any securities under this Schedule may, by memorandum of transfer, transfer to any other person the whole of the securities or any part thereof, being an amount of K1,000,000.00 or a multiple of K100,000.00 or such other amount as the Registrar may, in any particular case, agree to.

(2) On application to the Registrar, either by the registered holder or by the transferee, and on production to the Registrar of a duly executed memorandum of transfer of the securities and any outstanding certificate of title to those securities, the Registrar shall enter in the register the name of the transferee as the registered holder of the securities to which the memorandum of transfer relates.

(3) An entry under subparagraph (2) shall operate as a transfer of the securities to which it relates and shall vest those securities in the transferee.

(4) No transfer of securities shall be made under this paragraph while a certificate of title is outstanding in respect of the securities, unless the amount of the securities proposed to be transferred is not more than the amount standing on the register and unaffected by the outstanding certificate.

**21.** When the right to any securities under this Schedule is acquired by any person on the death or bankruptcy of the registered holder, or under a writ of execution, or in any manner other than by way of a transfer under paragraph 20, the Registrar shall, on application by or on behalf of the person entitled, and on being satisfied that the person is legally entitled to be registered as the holder of the securities, enter the name of the person in the register as the holder of the securities accordingly.

Transfer of securities

Acquisition of securities by operation of law

Vesting of securities of deceased holder without requiring probate or letters of administration

**22.**—(1) Where the registered holder of any securities under this Schedule has died, and the total nominal amount of the securities does not exceed K1,000,000 the Registrar shall have discretion, without requiring the production of probate or letters of administration, to register as the holder of the securities any person who proves to the satisfaction of the Registrar—

- (a) that the person is entitled to the securities under a will or intestacy of the deceased security-holder; or
- (b) that the person is entitled to obtain probate of the will of the deceased security-holder, or letters of administration of the estate of the deceased person; and
- (c) that in either case no grant of probate or letters of administration has been made.

(2) The Registrar shall give notice, in writing, to the Administrator General of any exercise of the powers conferred by subparagraph (1) within fourteen days of exercising the power.

Payment of interest

**23.**—(1) A Registrar shall, according to the terms of a loan, pay interest on any securities registered in the register maintained by that Registrar.

(2) Interest shall be paid to the registered security-holder or, in the case of securities held jointly or otherwise by two or more persons, to the security-holder first named in the register.

(3) Nothing in subparagraph (2) shall preclude the Registrar from accepting a direction from a security-holder or security-holders, as the case may be, for payment to be made to an agent.

(4) All payments authorized by this paragraph shall be statutory expenditure.

Closing of register

**24.**—(1) The Registrar shall, for a period of fourteen days before each payment of interest on any securities registered in the Registrar's register, close the register as regards transfers.

(2) The persons who on the day of such closing are registered as security-holders shall, as between them and their transferees, be entitled to the interest then next payable on the securities.

Power of attorney

**25.**—(1) A person may, by power of attorney in the prescribed form, appoint any other person to be that person's attorney for any purpose in relation to securities under this Schedule.

(2) A power of attorney under subparagraph (1) shall be deposited in the office of the Registrar.

(3) The power of attorney shall be valid and effectual for all the purposes mentioned in it until notice in writing of its revocation, or of the death, disability, bankruptcy, winding up or dissolution of the principal has been received in the office of the Registrar.

**26.**—(1) The Cabinet may authorize the Minister to issue, in Malawi or elsewhere, on such terms as the Minister determines appropriate, new securities for such amount as may be necessary for the purpose of redeeming or converting any securities; and the Minister may, from time to time, by agreement with the holders, renew any securities by extending the currency for such period as the Minister thinks appropriate.

(2) The Cabinet may authorize the Minister to pay to the holder of any securities being converted, such amount by way of premium or bonus as may be necessary to effect the conversion, and every such premium or bonus shall be deemed to be part of the costs, charges, and expenses of the conversion.

(3) In every case where money is borrowed under this paragraph, the money shall not be applied for any purpose other than redeeming or converting the securities for which it was borrowed and defraying the costs, charges, and expenses incurred in connection with the borrowing, redemption or conversion.

(4) Nothing in subparagraph (3) shall be construed to prevent the temporary investment of any such money pending its application to the purpose aforesaid.

(5) Trustees and other persons acting in a fiduciary capacity may convert any securities held by them pursuant to this paragraph, and shall not be liable for any loss resulting from any such conversion.

**27.** In every case where securities are disposed of to raise money to redeem outstanding securities, interest may be paid on the securities so disposed of notwithstanding that interest is still payable under the outstanding securities.

Interest on  
securities sold  
to redeem  
outstanding  
securities

**28.** The Secretary to the Treasury shall notify the Auditor General of all issues, renewals, conversions and redemptions of securities under this Schedule.

Auditor  
General to be  
notified

**29.** The costs, charges and expenses incurred in connection with raising a loan under this Schedule or converting, redeeming or renewing any securities shall be a statutory expenditure and may in accordance with the loan authorization Act, be charged upon and be paid out of the Consolidated Fund, or such other fund or account as the Minister thinks fit.

Cost, charges  
and expenses

### PART III — LOANS RAISED IN MALAWI

Subscriptions from non-Malawian or non-residents

**30.** The Minister may, pursuant to an authorizing Act, accept subscriptions to a loan from persons who are not Malawian citizens, or from persons who are not for the time being residents of Malawi, but no securities issued for such subscription shall provide for the payment of interest, or repayment of the principal in any currency other than Malawi Kwacha, and the transfer from Malawi of any interest or principal will be subject to any written law in this respect then in force.

Registrar of securities

**31.** The Reserve Bank of Malawi shall be the Registrar of securities under this Part of the Schedule.

Statements by Registrar

**32.** The Registrar shall, from time to time, furnish to the Secretary to the Treasury, certified statements on the amount of securities registered under this Part of the Schedule, with such other particulars as the Secretary to the Treasury may require, and the Auditor General shall for all purposes accept any such certified statements as correct.

Exemption from stamp duty

**33.** Notwithstanding any written law to the contrary, no stamp duty shall be payable on the transfer of any securities registered under this Part, or on any power of attorney given under paragraph 25 of the Schedule and relating exclusively to any such securities.

Evidence of contents of register

**34.** Any extract from the register, certified as correct by the Registrar, shall, for all purposes and in all courts, be conclusive evidence of the entry in the register to which the extract relates at the date when the extract was so certified.

### PART IV — LOANS RAISED OUTSIDE MALAWI

Determination of certain terms for borrowing outside Malawi

**35.** Each Act authorizing the Minister to borrow money outside Malawi shall state the—

(a) country in which the money is to be borrowed and the securities issued and registered for all amounts so borrowed;

(b) place for the payment of interest and the repayment of principal, respectively;

(c) currency in which the money is to be borrowed; and

(d) currency in which the securities are to be issued and in which the interest, principal and any other money thereby secured, is expressed to be measured or to be payable or repayable in, whether that of Malawi or of any other country.

36.—(1) The Minister, acting in accordance with the annual borrowing plan, may enter into any agreement with a government or a government agency of a country other than Malawi which the Minister considers would facilitate the raising of a loan on reasonable terms in that country by the Government of Malawi.

Agreements relating to loans raised outside Malawi

(2) Without restricting the generality of subparagraph (1) any such agreement may provide for the giving of consideration to obtain a guarantee of the loan, and for the ultimate protection of the guarantor.

(3) A copy of any agreement entered into by the Minister under this paragraph shall be laid before the National Assembly within fourteen days after the date of the execution of the agreement if the National Assembly is then in session, and if the National Assembly is not in session, at the commencement of the next ensuing session.

37. The Minister, acting on the advice of the Secretary to the Treasury, may appoint in a country other than Malawi, a Registrar of securities to be issued and registered in that country.

Appointment of Registrar of securities

38. If any loan authorized to be raised, or any securities authorized to be issued under this Schedule is to be raised or issued outside Malawi, the Minister may, by warrant under the Minister's hand, appoint any two or more persons as joint loan agents for raising the loan or issuing the securities and may, in like manner, confer upon such persons, all such powers as the Minister determines as necessary in order to carry into effect the purposes of this Schedule and any authorizing Act, and notice of such appointment shall be published in the *Gazette*.

Appointment of loan agents

39. The Minister may remove or accept the resignation of any loan agent and in any such case, or if any loan agent dies, the Minister may appoint another person to replace that agent.

Replacement of loan agents

40. The authority of the Minister to raise the whole or any part of a loan authorized to be raised, and generally to exercise all the powers conferred on the Minister by the Act, shall be in no way limited or affected by the fact that the Minister has appointed loan agents.

Minister's power not limited

41.—(1) The cost of composition of any stamp duty payable in a country other than Malawi in respect of transfer of any securities issued upon the raising of any loan or upon the conversion of any securities shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the securities.

Cost of stamp duty on transfer of certain securities

(2) In any case where any stamp duty in respect of such transfer is not compounded the Minister may estimate the amount required for the payment of the stamp duty during the first twelve months after the raising of the loan or the issuing of the securities, and the amount so estimated shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the securities.

(3) All sums paid as stamp duty on transfer of securities in excess of the amount estimated under subparagraph (2), and all other sums so paid in cases where no estimate is made, shall be deemed, for the purposes of this Schedule, to be part of the costs, charges and expenses of raising the loan or issuing the securities.

Transfer of  
securities from  
overseas to  
Malawi

**42.**—(1) Subject to such conditions and on payment of such fees as maybe prescribed, the holder of any securities repayable in a country other than Malawi may transfer the securities from the register kept in that country to the register kept in Malawi.

(2) After registration in Malawi of any transferred securities, the securities shall at maturity be redeemable in Malawi, and all interest falling due thereon after the date of that registration shall be payable in Malawi, notwithstanding anything to the contrary printed on any certificate of title or contained in a prospectus issued in connection with the raising of the loan.

(3) Any securities transferred to the register kept in Malawi shall not at any later date be transferred to any register kept outside Malawi.

#### PART V—TREASURY BILLS

Interpretation

**43.** In this Part, unless the context otherwise requires—

“redemption date” means the date for the redemption of Treasury Bills determined by the Minister under paragraph 46; and

“Treasury Bill” means a Treasury Bill issued under paragraph 44 and pursuant to this Part and includes any coupon in connection with that Treasury Bill.

Issue of  
Treasury Bills

**44.**—(1) The Minister may borrow, on behalf of the Government by the issue of Treasury Bills in Malawi, such amounts as may be authorized by a resolution of the National Assembly.

(2) The amount of Treasury Bills outstanding at any time shall not exceed twenty-five percent of annual budgeted revenue.

**45.** The provisions of paragraphs 11 and 24 of this Schedule shall not apply to Treasury Bills.

Provisions  
not applicable  
to Treasury  
Bills

**46.** Every Treasury Bill shall be—

Value and  
form of  
Treasury Bills

(a) for a sum of K100,000 or a multiple thereof and shall be recoverable by the Reserve Bank of Malawi which may recommend amendment of the sum to the Minister;

(b) repayable at par at such time or times as the Minister shall, before the issue of the Treasury Bill, determine, being not later than one year from the date of issue of the Treasury Bill;

(c) in such form as the Minister may determine; and

(d) issued by such method as the Minister may determine.

**47.** The par value of Treasury Bills shall be secured by way of a charge upon the Consolidated Fund or any other Fund as the Minister may determine and shall be payable as a statutory expenditure.

Treasury Bills  
to be a charge  
on  
Consolidated  
Fund

**48.** The Reserve Bank of Malawi shall be the agent of the Government for the purposes of the issuance and redemption of Treasury Bills.

Appointment  
of agent

**49.** The Reserve Bank of Malawi shall, upon request, notify the Auditor General of the par value of Treasury Bills outstanding at the time of the notification.

Auditor  
General to be  
notified

**50.—(1)** Upon the redemption date, Treasury Bills shall be delivered to the Reserve Bank of Malawi for cancellation and the par value shall be paid.

Cancellation,  
redemption  
and  
discounting  
Treasury Bills

(2) The Reserve Bank of Malawi may purchase Treasury Bills at a discount prior to the redemption date.

#### PART VI—MISCELLANEOUS

**51.** Subject to the provisions of this Schedule, the Secretary to the Treasury may—

Forms and  
other matters  
may be  
prescribed

(a) prescribe the forms of application for securities, certificate of title, transfer of securities and other instruments under this Schedule; and

(b) prescribe all such other matters as may be deemed necessary or expedient for giving full effect to the provisions of this Schedule.

#### FOURTH SCHEDULE FORM AND CONTENT OF FINANCIAL STATEMENTS

1. Financial statements shall include the following information—
  - (a) a consolidated operating statement showing revenue and expenditure and the surplus or deficit for the reporting period;
  - (b) a statement of financial position showing the assets, liabilities and net financial position as at the closure date of the reporting period;
  - (c) a statement of changes in equity/net assets during the reporting period;
  - (d) notes to the financial statements;
  - (e) all necessary disclosures as required;
  - (f) a statement of cash flows showing the cash receipts and cash payments for operating, financing and investing activities during the reporting period, and the cash and cash equivalent at the beginning of the reporting period and also as at date of closure of the reporting period;
  - (g) a statement of funds showing, for each Fund, balances at the beginning and end of the reporting period, and the nature of the movement in the reporting period;
  - (h) a statement of cash balances showing a breakdown of the balances held by type of holding;
  - (i) a statement of service performance showing appropriated budgets, approved variations to appropriated budgets, actual performance and variation between actual and budget;
  - (j) disaggregated statements of service performance for each Ministry, department and agency showing appropriated budgets and variations to those budgets, actual receipts and payments for appropriated items, including third party outputs and transactions on behalf of the Government, and the variation between appropriated budget and actual performance;
  - (k) a statement of statutory expenditure showing details of domestic debt servicing, external debt servicing, statutory remuneration and other material items of expenditure;
  - (l) a statement of investments showing the nature or type of investments and current and non-current investments;
  - (m) a statement of borrowings showing total debt and the break-down of current and non-current debt, and for each debt showing the opening and closing balances for the reporting period and the nature of the movement during the period, the impact of exchange rate movements, average interest rate, and loan balances available for drawdown (if applicable);
  - (n) a statement of contingent gains and liabilities' showing where possible an indication of the gain or cost;

(o) a statement of ex-gratia payments approved under the provisions of this Act;

(p) a statement of write-offs approved under section 113 showing, in aggregate, losses and deficiencies of public money, irrecoverable amounts of revenue, irrecoverable debts and overpayments, the value of assets including investments written-off; and

(q) a statement on the level of asset values, including a statement of Government policy for the maintenance of asset values".

2. A statement showing, for each account in the Trust Fund and Treasury Fund, balances at the beginning and end of the reporting period, and the nature of the movement in the reporting period.

3. A statement of accounting policies setting out the significant accounting policies on which the financial statements are prepared, and other information specified by the Secretary to the Treasury in Treasury Instructions as are required to provide more detailed information or explanations.

4. Comparative amounts—

(a) comparative amounts for the corresponding previous reporting period must be shown in the statements, except where inappropriate or the item has not previously existed.

(b) where items included in the current reporting period have been reclassified, the comparative amount of the previous reporting period should be similarly reclassified.

(c) where respective reporting periods are not equal in length, the period covered must be clearly identified.

(d) an amount in relation to the previous reporting period must be shown notwithstanding that there is no corresponding amount for the current reporting period.

5. Certification—

(a) there must be attached to the front of the financial statements—

(i) a statement, signed by the Secretary to the Treasury as to whether in his opinion, the financial statements present fairly the matters required by this Schedule; and

(ii) a copy of the report by the Auditor General required by section 107 (3);

(b) at the same time that the financial statements are laid before the National Assembly, the Auditor General, through the Speaker of the National Assembly and in accordance with the Standing Orders, lay before the National Assembly a return of public securities held in Malawi or elsewhere at the end of the financial year to which those financial statements relate; and every such return shall include a full account of all investments made under

section 49, and of all securities redeemed or otherwise disposed of during that financial year.

Passed in Parliament this twenty fifth day of March, two thousand and twenty two.

FIONA KALEMBA  
*Clerk of Parliament*

(Published 31st March, 2022)

**Act**

**No. 5 of 2022**

I assent

DR. LAZARUS McCARTHY CHAKWERA  
PRESIDENT  
31st March, 2022

**ARRANGEMENT OF SECTIONS**

SECTION

1. Short title and commencement
2. Amendment of s. 2 of Cap. 57:01
3. Replacement of s. 3 of the principal Act
4. Replacement of s. 7 of the principal Act
5. Insertion of ss. 9A and 9B into the principal Act
6. Amendment of s.11 of the principal Act
7. Amendment of s. 12 of the principal Act
8. Insertion of s. 20A into the principal Act
9. Replacement of s. 37 of the principal Act
10. Repeal of s. 38 of the principal Act
11. Replacement of s. 39 of the principal Act
12. Insertion of ss. 44A and 44 B into the principal Act

**An Act to amend the Land Act**

ENACTED by the Parliament of Malawi as follows —

1. This Act may be cited as the Land (Amendment) Act, 2022, and shall come into force on a date appointed by the Minister by notice published in the *Gazette*.

Short title and  
commencement

2. The Land Act (hereinafter referred to as the “principal Act”) is amended, in section 2, by—

Amendment  
of s. 2 of  
Cap. 57:01.

(a) deleting the definition of the term "customary land" and substituting therefor the following new definition—

"“customary land” means land held, occupied and used in accordance with customary law”;

(b) deleting the definition of the term “customary law” and substituting therefor the following new definition—

"“customary law” means customary law and practice prevailing in the traditional land management area”;

(c) inserting the following new definition immediately after the definition of the term “customary law” -

"“freehold land” means a fee simple, fee tail or life estate”;

(d) deleting the definition of the term “Government land” and substituting therefor the following new definition—

"“Government land” means land acquired and owned by the Government, but does not include a public road”;

(e) deleting paragraph (c) and paragraph (d) under the definition of the term “public land” and substituting therefor the following new paragraphs—

"(c) land *gazetted* for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites;” and

"(d) land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes;”

(f) deleting paragraph (e) under the definition of “public land”;

(g) inserting the following new definition immediately after the definition of the term “rules of good husbandry”—

"“Traditional Authority” has the meaning assigned thereto in the General Interpretation Act;” and

(h) deleting the definition of the term “traditional land management area” and substituting therefor the following new definition—

"“traditional land management area” means customary land demarcated and held by a Traditional Authority on trust for the residents under his jurisdiction.”

3. Section 3 of the principal Act is repealed and replaced with the following new section 3—

	3.— (1) There shall be a Commissioner for Lands (in this Act otherwise referred to as the “Commissioner”) who shall be a public officer.	“Commissioner for Lands
	(2) A person shall not qualify for appointment as Commissioner unless he—  (a) holds a minimum education qualification of a Bachelor’s degree obtained from an institution recognised or accredited under the National Council for Higher Education Act; and  (b) has not less than 10 years’ experience in land law and policy.”.	Cap. 30:12
4.	Section 7 of the principal Act is repealed and replaced with the following new section 7—  7. Land shall be categorized as public land, customary land or private land.”.	Replacement of s. 7 of the principal Act
5.	The principal Act is amended by inserting, immediately after section 9, new sections 9A and 9B as follows—  <b>9A.</b> — (1) Subject to the availability of land and a person’s means, every person shall have the right to access land for shelter and livelihood.  (2) Government shall ensure that there is no concentration of land in a few individuals to the disadvantage of other deserving persons.  (3) The Minister shall prescribe land ceilings taking into account the—  (a) availability of land; (b) utilization of land; and (c) capacity of a person to develop the land.	Insertion of ss. 9A and 9B into the principal Act
No sale of vacant land	<b>9B.</b> No person shall sell vacant leasehold or freehold land.”.	
6.	Section 11 of the principal Act is amended by inserting, immediately after subsection (2), new subsections (3) and (4) as follows—  “(3) Land for investment allocated by the Malawi Investment and Trade Centre Limited shall be withdrawn if it is not developed within two years of the allocation.	Amendment of s.11 of the principal Act

**(4) Any underdeveloped plots shall be subdivided in accordance with the Physical Planning Act and may be reallocated.”.**

**Amendment of s. 12 of the principal Act**  
**7. Section 12 of the principal Act is amended, in subsection (4), by deleting the words “annual and”.**

**Insertion of s. 20A into the principal Act**  
**8. The principal Act is amended by inserting, immediately after section 20, a new section 20A as follows—**

**“Land Eviction Orders**  
**20A.—(1) Notwithstanding section 45, the Minister or a local government authority may issue a land eviction order against any person who uses or occupies any public land without a valid grant, lease or disposition issued under any written law.**

**(2) A land eviction order shall be in a prescribed form and shall state—**

**(a) the particulars of land to which the eviction order relates;**

**(b) the particulars of the person against whom the eviction order is made;**

**(c) the period within which the person must vacate the land; and**

**(d) the penalty which may be imposed for non-compliance with the terms of the eviction order.**

**(3) For purposes of enforcing a land eviction order, the Minister or a local government authority—**

**(a) may enter the land to which the eviction order relates and take any appropriate action to enforce the order; and**

**(b) shall not be held responsible for the consequences of any action taken in good faith pursuant to the enforcement of the eviction order.**

**(4) The Minister or a local government authority may delegate the powers conferred under subsection (3) to any authorized officer or police officer.**

**(5) A land eviction order shall be served on the person against whom it is issued, or his agent or legal practitioner, or may be left and attached to a prominent place on the land to which the eviction order relates.**

**(6) Where the Minister or a local government authority takes any action for purposes of enforcing a land eviction order and incurs any costs by reason**

thereof, the Minister or the local government authority may recover the costs as a civil debt against the person to whom the eviction order relates.”.

**9. Section 37 of the principal Act is repealed and replaced with the following new section 37—**

“Land not to be granted or sold to a person who is not a citizen of Malawi

*Replacement of s. 37 of the principal Act*

37.—(1) Subject to section 11, land shall not be granted or sold to a person who is not a citizen of Malawi.

(2) Any existing grant in favour of a person who is not a citizen of Malawi shall be valid until it expires.

(3) Subject to subsection (4), any existing lease in favour of a person who is not a citizen of Malawi shall, upon expiry, not be renewed.

(4) An existing lease in favour of a person who is not a citizen of Malawi may, upon expiry, only be renewed if the land is—

(a) developed and;

(b) used as a residential home or for commercial or charitable purposes.”.

**10. Section 38 of the principal Act is repealed.**

*Repeal of s. 38 of the principal Act*

**11. Section 39 of the principal Act is repealed and replaced with the following new section 39—**

“Failure to develop freehold land

*Replacement of s. 39 of the principal Act*

39.—(1) Where a holder of private land under freehold title has commenced development of the land within two years from the commencement of this Act, the Minister may, without prejudice to any other powers conferred on him by this Act or any other written law, by written notice sent to the person concerned and addressed to his registered or his last known address, demand voluntary surrender of the land by the person to the Government within a period of ninety days from the date of the written notice, failing which the Minister shall enter the land and register the freehold title in the name of the Government.

(2) Where the holder of a private land has not commenced development of the land within two years pursuant to subsection (1), he may apply to the Minister for the extension of the period within which to

commence development of the land, and the Minister may, upon being satisfied, grant the extension.

Insertion of  
ss. 44A and  
44B into the  
principal Act

"Lease  
granted by  
the Minister  
to revert to  
public land

**12.** The principal Act is amended by inserting, immediately after section 44, new sections 44A and 44B as follows—

**44A.—** (1) Where a lease granted by the Minister in accordance with this Act expires, the land shall become public land.

(2) Where the expired lease referred to under subsection (1) was created out of customary land, the Minister may—

(a) convert the public land to customary land; and

(b) reallocate the land, giving priority to communities living in the area surrounding the land.

Surrender of  
land upon  
change of use  
from  
agricultural to  
residential or  
commercial  
development  
Cap. 23:01

**44B.** Where a land holder makes an application under the Physical Planning Act for change of use of the whole or any part of the land that was granted for agricultural purposes to residential or commercial development, any approval for the change of use of the land shall be granted on condition that—

(a) no vacant land shall be sold; and

(b) fifty per cent of the land intended for residential or commercial development shall, subject to payment of appropriate compensation, be surrendered to the Government.”.

Passed in Parliament this twenty fifth day of March, two thousand and twenty-two.

FIONA KALEMBA  
*Clerk of Parliament*

(Published 31st March, 2022)

**Act**

**No. 6 of 2022**

I assent

DR. LAZARUS McCARTHY CHAKWERA  
PRESIDENT  
31st March, 2022

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Amendment of s. 2 to Cap 41:01
3. Amendment of s. 27 of the principal Act
4. Amendment of the First Schedule of the principal Act
5. Amendment of the Second Schedule of the principal Act
6. Amendment of the Eleventh Schedule of the principal Act
7. Replacement of the Fourteenth Schedule of the principal Act
8. Replacement of the Fifteenth Schedule of the principal Act

**An Act to amend the Taxation Act**

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Taxation (Amendment) Act, 2022.

Short title

2. The Taxation Act (hereinafter referred to as the “principal Act”) is amended, in section 2, by deleting the definitions of the words “debt” and “equity”.

Amendment  
of s.2 to Cap.  
41:01

3. The principal Act is amended, in section 27 by—

(a) deleting subsection (9) and substituting therefor, the following new subsection (9)—

Amendment  
of s. 27 of the  
principal Act

“(9) For the purposes of calculating the interest referred to in subsection (8), the Commissioner General shall—

(a) in case of a domestic loan, apply the prevailing bank rate plus five percent per annum; and

(b) in case of a foreign loan, apply five percent per annum on the United States Dollar equivalent of the loan.”; and

(b) deleting subsection (10) and substituting therefor the following new subsection (10)—

“(10) The Commissioner General shall determine the amount of interest forgone in subsection (9) by using a prevailing bank lending rate plus five percent per annum.”.

Amendment  
of the First  
Schedule of  
the principal  
Act

4. The principal Act is amended, in the First Schedule, by deleting subparagraph (b) and substituting therefor, the following new paragraphs (b) and (ba)—

“(b) the receipt and accruals of—

(i) land and agricultural banks specifically constituted by any law of Malawi, any board or other body constituted under any such law having as its main object, the fostering or controlling of the primary production, manufacture, or marketing of any commodity, or the stabilizing of the price of any commodity;

(ii) a registered trade union;

(iii) agricultural, mining and commercial institutions or societies not operating for the private pecuniary profit or gain of the members;

(iv) clubs, societies and associations, not being clubs,

societies or associations to which the provisions of section 61 apply, formed, organized or operated solely or principally for social welfare, civic improvement or other similar purposes, if such receipts or accruals, whether current or accumulated, may not be divided amongst or credited to or ensure to the benefit of any member or shareholder;

(v) building societies and friendly societies;

(vi) employees' savings schemes or funds approved by the Commissioner;

(vii) statutory corporations and bodies and associations

as may be specified by the Minister by notice published in the *Gazette*;

(viii) ecclesiastical, charitable and educational institutions of a public character, and trusts of a public character:

Provided that this paragraph shall not apply to receipts or accruals derived from the carrying on of any business.

(ba) the receipt and accruals of—

- (i) any payments of pension or annuity, whether paid as a lump sum or periodically;
- (ii) a payment on account of ill-health or disability.”.

5. The principal Act is amended, in the Second Schedule, by inserting, immediately after subparagraph (2), the following new subparagraph (3)—

“(3) For the purposes of this paragraph, “commercial building” means a shopping centre with a collection of independent retail stores, services, and a parking area conceived, constructed and maintained by a management firm as a unit.”.

6. The principal Act is amended, in the Eleventh Schedule, by—

(a) inserting in alphabetical sequence, the following new paragraph (i)—

“(i) in case of presumptive tax for commercial passenger carrying vehicles, at the following rates—

<i>Type of vehicle</i>	<i>Annual Rate</i>
Motor vehicles of up to sixteen seats, including a driver	K15,000.00

Motor vehicles of above sixteen seats and less than thirty-three seats, including the driver K20,000.00”; and

(b) repealing the APPENDIX and replacing therefor, the following new APPENDIX as follows—

#### “APPENDIX

##### A—TABLE OF RATES OF INCOME TAX ON TAXABLE INCOME OTHER THAN EMPLOYMENT INCOME

<i>Annual Taxable Income</i>	<i>Rate</i>
First K1,200,000	0%
Excess of K1,200,000	30%

##### B—TABLE OF RATES OF INCOME TAX ON EMPLOYMENT INCOME

<i>Annual Taxable Income</i>	<i>Rate</i>
First K1,200,000	0%
Next K2,760,000	25%
Next K32,040,000	30%”
Next K36,000,000	35%
Excess of K72,000,000	40%.”

Amendment  
of the Second  
Schedule of  
the principal  
Act

Amendment  
of the  
Eleventh  
Schedule of  
the principal  
Act

Replacement of  
the Fourteenth  
Schedule of the  
principal Act

7. The principal Act is amended, by revoking the Fourteenth Schedule and replacing therefor, the following new Fourteenth Schedule—

#### “FOURTEENTH SCHEDULE

Table of Withholding Tax—Rate of Deduction

<i>Nature of payment</i>	<i>Notes</i>	<i>Rate of Withholding Tax on gross payment</i>
(a) Royalties		20%
(b) Rents	1	20%
(c) Payment for any supplies to traders and institutions—		
(i) Foodstuff		3%
(ii) Other		3%
(d) Commissions	2	20%
(e) Commissions for individual insurance agents and individual banking agents	3	1%
(f) Payment for carriage and haulage		10%
(g) Payment of tobacco and other farms products		
(i) Sale of tobacco by tobacco clubs	4	1%
(ii) Payment for tobacco and other farm produce		3%
(h) Payment to contractors in the building and construction industries	5	4%
(i) Payment for public entertainment	6	20%
(j) Payment for casual labour—		
(i) payment of up to K35,000		0%
(ii) payment in excess of K35,000		20%
(k) Payment for services		20%
(l) Interest	7	20%
(m) Fees	2	20%
(n) Winnings on betting and gambling including lotteries	8	5%

Notes:

1. Includes rent for moveable and immoveable property, whether paid under a lease or otherwise, but excludes rent payable by an individual whose source of income is only from employment and the rent is payable in respect of property used as a dwelling house.
2. Excludes fees and commissions on which P.A.Y.E. is being operated, but includes technical fees and management fees to the extent they do not relate to reimbursement of expenses.
3. The amount of tax so withheld shall be a final tax.
4. The tax withheld from income from sale of tobacco by tobacco clubs shall be a final tax.
5. Includes contractors and subcontractors of any category.
6. Includes payment to musicians, radio and television artist, athletes and theatres, but excludes payments to radio and television artists which are subject to P.A.Y.E.
7. Excludes—
  - (a) interest payable to a person exempt from income tax under the First Schedule;
  - (b) interest payable to a person, not being a person resident in Malawi, whose income is liable to non-resident tax under section 76A of the Act; and
  - (c) interest, however arising, payable by any person to an institution registered under the Banking Act.”
- 8.—(1)“Winnings” means any payment made to any person who wins a bet, a gamble or any gaming activity including lottery.
  - (2) The first K100,000 of winnings from betting and the first K500,000 of winnings from gambling including lotteries shall not be chargeable to tax.
  - (3) Withholding tax shall be charged on winnings—
    - (i) in excess of K100,000, where the winnings are from betting; and
    - (ii) in excess of K500,000, where the winnings are from gambling including lotteries.
  - (4) The tax withheld from winnings shall be a final tax.”.
8. The principal Act is amended, by revoking the Fifteenth Schedule and replacing therefor, the following new Fifteenth Schedule—

**"FIFTEENTH SCHEDULE**

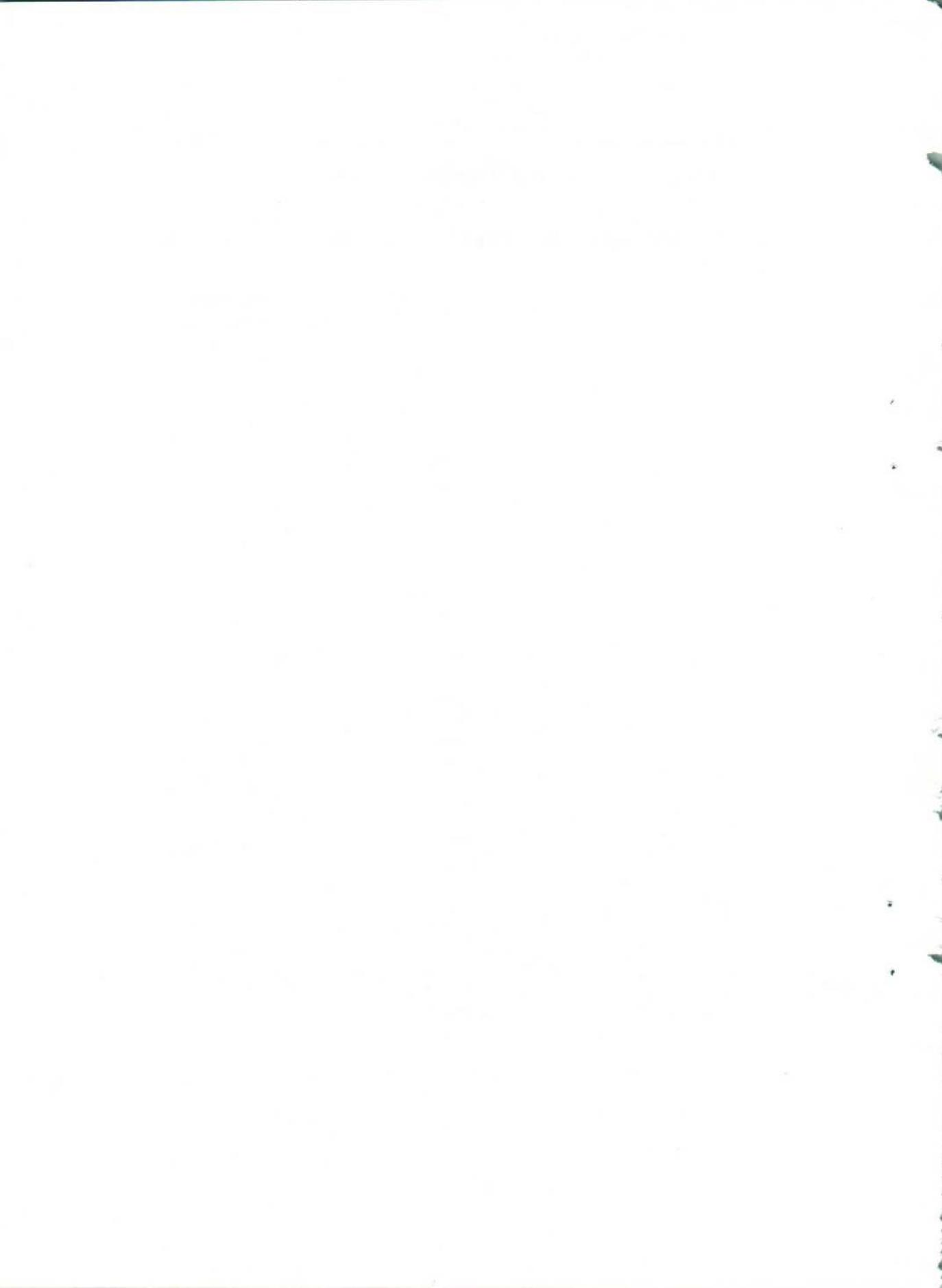
List of transactions in respect of which a tax clearance certificate is required—

1. Transfer of land and building.
2. Application or renewal of Certificate of Fitness for commercial vehicles.
3. Renewal of Business Residence Permit.
4. Application or renewal of professional business licences and permits of medical practitioners or dentists, legal practitioners, engineers, architects and accountants who are engaged in private practice on his or her own behalf as a private practice or in partnership with another private practitioner.
5. Application or renewal of a customs agent licence.
6. Application or renewal of a certificate of registration under the National Construction Industry Act.
7. Transfer of a company as a going concern.
8. Externalization of funds to non-resident service providers whose source is deemed to be Malawi.
9. Renewal of Temporary Employment Permits.
10. Renewal of business licences by the Ministry responsible for industry and trade and Councils under local government areas.
11. Application and renewal of export and import licenses.
12. Renewal of tourism licences by the Ministry responsible for tourism.
13. Renewal, extension or transfer of mining licences, or transfer of mineral rights by the Ministry responsible for energy and natural resources.
14. Renewal of telecommunications licences by the Malawi Communications Regulatory Authority.
15. Renewal of energy licences by the Malawi Energy Regulatory Authority.
16. Application or renewal of a licence for gaming premises.
17. Application or use of a Customs Procedure Code by a privileged organisation.
18. Change of ownership of a company.
19. Renewal of registration of public transport conveyances by the Road Traffic Directorate.

20. Supply of goods or services to Malawi Government and its agencies.”.

Passed in Parliament this twenty eighth day of March, two thousand and twenty two.

FIONA KALEMBA  
*Clerk of Parliament*



(Published 31st March, 2022)

**Act**

**No. 7 of 2022**

I assent

DR. LAZARUS McCARTHY CHAKWERA

PRESIDENT

31st March, 2022

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title
2. Amendment of section 2 to Cap.42:02
3. Repeal of Part IIIA of the principal Act
4. Amendment of section 30 (1) of the principal Act
5. Amendment of section 34 of the principal Act
6. Amendment of section 37 of the principal Act
7. Amendment of section 38 (1) of the principal Act
8. Amendment of section 46 of the principal Act
9. Amendment of section 59 of the principal Act
10. Amendment of the First Schedule to the principal Act

**An Act to amend the Value Added Tax Act**

Short title

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Value Added Tax (Amendment) Act, 2022.

Amendment  
of s.2 to  
Cap.42:02

2. The Value Added Tax Act (hereinafter referred to as the “principal Act”) is amended, in section 2, by deleting the definition of the word “withholding agent”.

Repeal of  
Part IIIA of  
the principal  
Act

- Amendment of s.30 (1) of the principal Act
3. The principal Act is amended, by repealing Part IIIA.
- Amendment of s.34 of the principal Act
4. The principal Act is amended, in section 30 (1), by deleting paragraph (d).
- Amendment of s.37 of the principal Act
5. The principal Act is amended, in section 34, by deleting, wherever it appears in that section, the words "or withholding agent".
- Amendment of s.38 (1) of the principal Act
6. The principal Act is amended, in section 37, by repealing subsection (4).
- Amendment of s.46 of the principal Act
7. The principal Act is amended, in section 38 (1), by deleting the words "or withholding agent" immediately after the words "taxable person".
- Amendment of s.59 of the principal Act
8. The principal Act is amended, in section 46, by repealing subsection (2).
9. The principal Act is amended, in section 59—
- (a) in the marginal note, by deleting word "withholding"; and
  - (b) by deleting the words "or withholds Value Added Tax on payment to a supplier of taxable goods or services" appearing immediately after the words "taxable person".
10. The principal Act is amended, in the First Schedule, by—
- (a) inserting, immediately after paragraph 3(g), a new paragraph (ga), as follows—  
"(ga) cooking oil under the Customs Tariff Subheadings 1507.90.00, 1508.90.10 to 1508.90.90, 1511.90.11 to 1511.90.90 and 1512.19.00 to 1512.29.00";
  - (b) inserting, in the correct numerical order, a new paragraph 4, as follows—  
“4 Water  
Exemption covers non-mineral or aerated water without additives (tap or well) under customs tariff subheading 2201.90.90”;
  - (c) deleting, under subparagraph (aaa), customs tariff subheadings “8480.71.00” and “8480.79.00”;
  - (d) deleting, under paragraph 18, the words “Syringes with or without needles under Customs Tariff Heading—9018.31.00.”; and

(e) inserting, in the correct numerical order, a new paragraph 27, as follows—

**"27. Sanitary Towels and Tampons**

Exemption covers sanitary towels (pads) and tampons under customs tariff subheading 9619.00.10.”.

Passed in Parliament this twenty ninth day of March, two thousand and twenty two.

FIONA KALEMBA  
*Clerk of Parliament*



(Published 31st March, 2022)

Act

No. 8 of 2022

I assent

DR. LAZARUS McCARTHY CHAKWERA

PRESIDENT

31st March, 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Expenditure of K2,839,891,458,636 authorized
3. Appropriation
4. Balance unused to lapse
5. Schedule

An Act to appropriate the sum of two trillion, eight hundred thirty-nine billion, eight hundred ninety-one million, four hundred fifty-eight thousand, six hundred and thirty-six Kwacha to the goods and services of the financial year ending

31st March, 2023

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Appropriation Act, 2022. Short title
2. The Minister of Finance is hereby authorized, in the manner provided in the Public Finance Management Act, to direct payment out of the Consolidated Fund, during the financial year ending 31st March, 2023, of sums not exceeding in the whole of two trillion, eight hundred thirty-nine billion, eight hundred ninety-one million, four hundred fifty-eight thousand, six hundred and thirty-six Kwacha to the goods and services of the financial year ending 31st March, 2023. Expenditure of  
K2,839,891,  
458,636  
authorized  
Cap. 37:02
3. The funds authorized in section 2, not exceeding in the Appropriation

whole, two trillion, eight hundred thirty-nine billion, eight hundred ninety-one million, four hundred fifty-eight thousand, six hundred and thirty-six Kwacha shall be appropriated to the purpose of expenditure out of the Consolidated Revenue and Capital Accounts, and these funds shall be appropriated to the Votes for the Head of Expenditure appearing opposite each amount.

Balance  
unused to  
lapse

4. Any balance of an amount set out in the Schedule which is unused at the end of the financial year ending 31st March, 2023, shall lapse and shall not be available for making payments in any subsequent months.

**SCHEDULE  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS**

<i>Head</i>	<i>Statutory Expenditure</i>	<i>Recurrent 2022/23</i> <i>K</i>	<i>Capital 2022/23</i> <i>K</i>	<i>Estimates 2022/23</i> <i>K</i>
010	The Presidency	106,837,500	-	106,837,500
020	Miscellaneous and Other Statutory Payments	33,275,400,000	-	33,275,400,000
030	Pensions and Gratuities	120,568,333,462	-	120,568,333,462
040	Public Debt Charges	520,737,912,208	-	520,737,912,208
	<b>Total Statutory Expenditure</b>	<b>674,688,483,170</b>	<b>-</b>	<b>674,688,483,170</b>
<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2022/23</i> <i>K</i>	<i>Capital 2022/23</i> <i>K</i>	<i>Estimates 2022/23</i> <i>K</i>
050	State Residences	13,282,979,140	1,250,000,000	14,532,979,140
060	National Audit Office	2,322,666,842	-	2,322,666,842
070	The Judiciary	13,948,950,357	500,830,850	14,449,781,207
080	National Assembly	25,386,322,239	-	25,386,322,239
081	Office of the Director of Public Officer's Declarations	1,026,630,005	-	1,026,630,005
082	Independent Complaints Commission	359,588,480	-	359,588,480
090	Office of the President and Cabinet	13,019,269,308	9,328,781,312	22,348,050,621
091	National Intelligence Service	3,017,506,800	-	3,017,506,800
093	Department of Human Resources Management and Development	33,993,384,253	-	33,993,384,253
097	Civil Service Commission	723,763,969	-	723,763,969
100	Ministry of Defence	603,258,425	2,250,000,000	2,853,258,425
101	Malawi Defence Force	108,300,137,837	-	108,300,137,837
120	Ministry of Local Government	1,505,587,976	11,200,000,000	12,705,587,976

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

<i><b>Vote</b></i>	<i><b>Voted Expenditure</b></i>	<i><b>Recurrent 2022/23</b></i>		<i><b>Capital 2022/23</b></i>	<i><b>Estimates 2022/23</b></i>
		<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>
121	National Local Government Finance Committee	17,692,949,398	65,365,385,180		83,058,334,578
130	Ministry of Lands	15,513,661,707	5,500,000,000		21,013,661,707
170	Ministry of National Unity	1,197,886,881	—		1,197,886,881
180	Ministry of Youth and Sports	1,355,358,899	13,840,979,877		15,196,338,775
190	Ministry of Agriculture	139,936,609,705	134,785,535,108		274,722,144,814
210	Ministry of Water and Sanitation	2,108,657,437	149,162,624,983		151,271,282,419
240	Office of the Vice President	3,407,325,024	300,000,000		3,707,325,024
250	Ministry of Education	69,337,812,901	46,120,024,855		115,457,837,756
260	Ministry of Foreign Affairs	25,610,110,763	1,070,000,000		26,680,110,763
270	Ministry of Finance and Economic Affairs	5,505,061,476	28,561,393,035		34,066,454,511
271	Accountant General's Department	10,026,417,828	4,500,000,000		14,526,417,828
273	Malawi Revenue Authority	45,550,078,932	—		45,550,078,932
274	Roads Fund Administration	40,288,939,912	111,050,445,770		151,339,385,683
275	Subvented Organisations	117,058,224,201	28,971,144,873		146,029,369,074
276	National Statistical Office	2,256,760,597	—		2,256,760,597
277	National Planning Commission	1,428,405,644	—		1,428,405,644
278	Unforeseen Expenditures	2,000,000,000	—		2,000,000,000
279	Financial Intelligence Authority	1,201,578,263	—		1,201,578,263
310	Ministry of Health	93,390,789,094	68,240,174,436		161,630,963,530
320	Ministry of Gender, Community Development and Social Welfare	7,568,520,070	29,311,639,460		36,880,159,530
330	Ministry of Information and Digitization	3,665,566,244	6,656,680,680		10,322,246,924

**SCHEDULE—(continued)**  
**ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS**

<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2022/23</i>		<i>Capital 2022/23</i>	<i>Estimates 2022/23</i>
		<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>
340	Ministry of Homeland Security	7,863,786,117		4,519,800,000	12,383,586,117
341	Malawi Police Service	71,836,656,143		1,400,000,000	73,236,656,143
342	Malawi Prison Service	14,243,516,522		800,000,000	15,043,516,522
343	Immigration Department	5,593,136,318		785,366,387	6,378,502,705
350	Ministry of Justice	810,070,604		-	810,070,604
351	Directorate of Public Prosecutions and State Advocate	1,982,688,802		-	1,982,688,802
352	Registrar General's Department	887,563,544		-	887,563,544
353	Administrator General's Department	509,701,942		-	509,701,942
354	Attorney General's Department	395,373,860		-	395,373,860
360	Ministry of Tourism, Culture and Wildlife	5,152,897,734		8,028,853,370	13,181,751,104
370	Ministry of Labour	7,697,927,708		1,100,000,000	8,797,927,708
390	Ministry of Trade and Industry	3,018,801,599		2,200,000,000	5,218,801,599
400	Ministry of Transport and Public Works	7,311,456,445		9,258,145,706	16,569,602,151
420	Roads Authority	4,166,438,675		-	4,166,438,675
430	Malawi Human Rights Commission	1,375,119,959		-	1,375,119,959
460	Malawi Electoral Commission	4,306,822,337		-	4,306,822,337
470	Ministry of Natural Resources and Climate Change	6,688,033,316		2,943,061,729	9,631,095,045
480	Ministry of Mining	2,097,987,793		100,000,000	2,197,987,793
490	Ministry of Energy	1,792,401,161		23,437,764,700	25,230,165,861
510	Anti-Corruption Bureau	6,115,776,119		200,000,000	6,315,776,119
520	Legal Aid Bureau	1,808,717,064		-	1,808,717,064

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

Vote	<i>Voted Expenditure</i>	<i>Recurrent 2022/23</i>	<i>Capital 2022/23</i>	<i>Estimates 2022/23</i>
		K	K	K
550	Office of the Ombudsman	1,254,573,071	-	1,254,573,071
560	Malawi Law Commission	954,266,178	-	954,266,178
601	Blantyre City Council	530,685,375	8,187,234,388	8,717,919,763
602	Lilongwe City Council	552,497,670	6,739,234,388	7,291,732,058
603	Mzuzu City Council	282,497,672	3,483,234,388	3,765,732,060
604	Zomba City Council	155,796,099	3,483,234,388	3,639,030,487
701	Kasungu Municipal	44,463,437	22,831,252	67,294,689
702	Mangochi Town Council	48,061,009	22,831,252	70,892,260
807	Luchenza Municipal	43,275,744	22,831,252	66,106,996
901	Balaka District Council	10,171,039,182	598,966,550	10,770,005,732
902	Blantyre District Council	23,764,556,908	671,781,175	24,436,338,083
903	Chikwawa District Council	11,709,057,139	847,000,227	12,556,057,366
904	Chiradzulu District Council	8,694,579,721	671,945,305	9,366,525,026
905	Chitipa District Council	7,431,147,622	669,050,965	8,100,198,587
906	Dedza District Council	15,000,439,391	1,095,370,092	16,095,809,483
907	Dowa District Council	14,089,274,504	950,986,174	15,040,260,679
908	Karonga District Council	9,311,211,849	688,291,049	9,999,502,898
909	Kasungu District Council	18,038,849,113	1,175,687,494	19,214,536,607
910	Likoma District Council	719,077,768	166,382,383	885,460,151
911	Lilongwe District Council	41,261,980,701	2,294,705,218	43,556,685,919
912	Machinga District Council	13,347,419,731	966,912,635	14,314,332,366
913	Mangochi District Council	19,407,925,659	1,577,331,985	20,985,257,644

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2022/23</i>	<i>Capital 2022/23</i>	<i>Estimates 2022/23</i>
		<i>K</i>	<i>K</i>	<i>K</i>
914	Mchinji District Council	12,364,805,734	828,752,764	13,193,558,498
915	M'mbelwa District Council	25,856,543,432	1,429,512,447	27,286,055,879
916	Mulanje District Council	14,274,500,760	1,182,333,156	15,456,833,916
917	Mwanza District Council	4,305,190,449	327,350,175	4,632,540,624
918	Neno District Council	4,652,383,739	354,834,500	5,007,218,239
919	Nkhata Bay District Council	8,920,052,703	767,886,220	9,687,938,923
920	Nkhotakota District Council	9,829,340,482	669,023,283	10,498,363,765
921	Nsanje District Council	7,998,009,683	708,444,520	8,706,454,203
922	Ntcheu District Council	13,412,958,483	925,031,931	14,337,990,415
923	Ntchisi District Council	7,950,578,580	549,967,641	8,500,546,221
924	Phalombe District Council	9,163,477,485	700,974,306	9,864,451,791
925	Rumphi District Council	7,575,651,390	542,051,101	8,117,702,491
926	Salima District Council	10,866,353,214	693,466,128	11,559,819,341
927	Thyolo District Council	14,250,708,063	943,186,577	15,193,894,640
928	Zomba District Council	18,851,155,913	1,175,665,824	20,026,821,738
	Total Voted Expenditure	<u>1,346,330,020,023</u>	<u>818,872,955,443</u>	<u>2,165,202,975,466</u>
	GRAND TOTAL	<u>2,021,018,503,193</u>	<u>818,872,955,443</u>	<u>2,839,891,458,636</u>

Passed in Parliament this twenty-eighth day of March, two thousand and twenty-two.

FIONA KALEMBA  
*Clerk of Parliament*



(Published 31st March, 2022)

Act

No. 9 of 2022

I assent

DR. LAZARUS McCARTHY CHAKWERA  
PRESIDENT  
31st March, 2022

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of long title to Act No.3 of 2021
3. Replacement of s. 2 of the principal Act
4. Amendment of s. 3 of the principal Act
5. Replacement of the Schedule to the principal Act

**An Act to amend the Appropriation Act, 2021**

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Appropriation (Amendment) Short title Act, 2022.

2. The Appropriation Act, 2021 (hereinafter referred to as the “principal Act”) is amended, in the long title, by deleting the words “one trillion, nine hundred ninety-five billion, one hundred and one million, one hundred sixty-one thousand, two hundred and sixty-seven Kwacha” and substituting therefore the words “one trillion, nine hundred ninety-four billion, nine hundred forty-six million, two hundred ninety-six thousand, seven hundred and sixty-one Kwacha.”.

3. Section 2 of the principal Act is repealed and replaced with the following—

2. The Minister of Finance is hereby authorized, in the manner provided in the Public Finance Management Act, to direct payment out of the Consolidated Fund, during the financial year ending 31st March, 2022, of sums not exceeding in the whole one

Amendment  
of long title  
to Act  
No. 3 of 2021

Replacement  
of s. 2 of the  
principal Act  
Cap. 37:02

“Expenditure  
of  
K1,994,946,  
296,761  
authorized  
Cap. 37:02

trillion, nine hundred ninety-four billion, nine hundred forty-six million, two hundred ninety-six thousand, seven hundred and sixty-one Kwacha.”.

Amendment of  
s. 3 of the  
principal Act

4. Section 3 of the principal Act is amended by deleting the words ““one trillion, nine hundred ninety-five billion, one hundred and one million, one hundred sixty-one thousand, two hundred and sixty-seven Kwacha” and substituting therefor the words “one trillion, nine hundred ninety-four billion, nine hundred forty-six million, two hundred ninety-six thousand, seven hundred and sixty-one Kwacha.”.

Replacement of  
the Schedule to  
the principal  
Act

5. The Schedule to the principal Act is revoked and replaced with the following new Schedule—

**SCHEDULE**  
**ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS**

<i>Head</i>	<i>Statutory Expenditure</i>	<i>Recurrent 2021/22</i>		<i>Capital 2021/22</i>		<i>Estimates 2021/22</i>	
		<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>
010	The Presidency	78,750,000	-	-	-	78,750,000	
020	Miscellaneous and Other Statutory Payments	42,635,580,065	-	-	-	42,635,580,065	
030	Pensions and Gratuities	94,717,742,344	-	-	-	94,717,742,344	
040	Public Debt Charges	280,137,930,586	-	-	-	280,137,930,586	
	<b>Total Statutory Expenditure</b>	<b>417,570,002,994</b>				<b>417,570,002,994</b>	
<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2021/22</i>		<i>Capital 2021/22</i>		<i>Estimates 2021/22</i>	
		<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>
050	State Residences	16,731,222,016	-	-	-	16,731,222,016	
060	National Audit Office	1,934,884,651	-	-	-	1,934,884,651	
070	The Judiciary	10,638,756,035	-	-	-	11,203,756,035	
080	National Assembly	16,278,435,603	-	-	-	16,278,435,603	
081	Office of the Director of Public Officer's Declarations	731,905,292	-	-	-	731,905,292	
082	Independent Complaints Commission	262,424,336	-	-	-	262,424,336	
090	Office of the President and Cabinet	12,124,092,267	-	-	-	12,124,092,267	
093	Department of Human Resources Management and Development	2,076,698,796	-	-	-	2,076,698,796	
097	Civil Service Commission	540,676,753	-	-	-	540,676,753	
100	Ministry of Defence	409,266,955	3,769,296,596	-	-	4,178,563,551	
101	Malawi Defence Force	82,323,887,515	-	-	-	82,323,887,515	

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2021/22</i>		<i>Capital 2021/22</i>		<i>Estimates 2021/22</i>	
		<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>	<i>K</i>
110	Ministry of Economic Planning and Public Sector Reforms	1,095,011,769	-	789,434,035	-	1,884,445,804	-
120	Ministry of Local Government	798,382,517	-	11,550,721,750	-	12,349,104,267	-
121	National Local Government Finance Committee	14,049,898,731	-	4,537,101,703	-	18,587,000,434	-
130	Ministry of Lands	11,524,107,890	-	6,885,208,568	-	18,409,316,458	-
170	Ministry of Civic Education and National Unity	734,242,695	-	-	-	734,242,695	-
180	Ministry of Youth and Sports	750,364,143	-	8,366,813,854	-	9,117,177,997	-
190	Ministry of Agriculture	205,209,948,449	-	59,028,538,234	-	264,238,486,683	-
240	Office of the Vice President	3,420,658,171	-	300,000,000	-	3,720,658,171	-
250	Ministry of Education	52,570,308,876	-	25,201,639,294	-	77,771,948,170	-
260	Ministry of Foreign Affairs	21,675,794,304	-	-	-	21,675,794,304	-
270	Ministry of Finance	2,732,005,405	-	23,645,190,290	-	26,377,195,695	-
271	Accountant General's Department	8,679,292,917	-	3,000,000,000	-	11,679,292,917	-
273	Malawi Revenue Authority	30,992,195,768	-	-	-	30,992,195,768	-
274	Roads Fund Administration	31,310,101,618	-	70,051,904,583	-	101,362,006,201	-
275	Subvented Organizations	89,060,553,127	-	25,269,579,275	-	114,330,132,402	-
276	National Statistical Office	720,268,613	-	-	-	720,268,613	-
277	National Planning Commission	937,445,580	-	-	-	937,445,580	-
278	Unforeseen Expenditures	2,000,000,000	-	-	-	2,000,000,000	-
279	Financial Intelligence Authority	895,707,857	-	-	-	895,707,857	-
310	Ministry of Health	36,698,106,801	-	-	-	118,914,884,068	-

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

<i>Vote</i>	<i>Voted Expenditure</i>	<i>Recurrent 2021/22</i>	<i>Capital 2021/22</i>	<i>Estimates 2021/22</i>
		<i>K</i>	<i>K</i>	<i>K</i>
320	Ministry of Gender, Community Development and Social Welfare	5,328,533,333	33,779,533,020	39,108,066,353
330	Ministry of Information	3,347,957,558	31,960,599,967	35,308,557,525
340	Ministry of Homeland Security	5,369,351,031	4,000,000,000	9,369,351,031
341	Malawi Police Service	55,736,781,877	500,000,000	56,236,781,877
342	Malawi Prison Service	9,620,176,625	800,000,000	10,420,176,625
343	Immigration Department	3,611,502,675	200,000,000	3,811,502,675
350	Ministry of Justice	1,054,042,842	-	1,054,042,842
351	Directorate of Public Prosecutions and State Advocate	1,506,535,689	-	1,506,535,689
352	Registrar General's Department	666,117,110	-	666,117,110
353	Administrator General's Department	397,792,225	-	397,792,225
360	Ministry of Tourism, Culture and Wildlife	3,335,590,677	1,866,697,816	5,202,288,493
370	Ministry of Labour	4,724,521,633	2,439,564,602	7,164,086,235
380	Ministry of Trade	1,370,852,657	10,141,701,700	11,512,554,357
390	Ministry of Industry	867,590,609	2,245,941,998	3,113,532,607
400	Ministry of Transport and Public Works	5,031,440,229	3,881,524,192	8,912,964,421
420	Roads Authority	3,311,954,432	-	3,311,954,432
430	Malawi Human Rights Commission	1,025,520,863	-	1,025,520,863
460	Malawi Electoral Commission	4,839,427,082	-	4,839,427,082
470	Ministry of Forestry and Natural Resources	5,853,042,589	44,453,481,189	50,306,523,778
480	Ministry of Mining	1,279,367,114	689,000,000	1,968,367,114
490	Ministry of Energy	1,626,284,842	27,164,220,370	28,790,505,212

SCHEDULE—(continued)  
ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS

<i><b>Vote</b></i>	<i><b>Voted Expenditure</b></i>	<i><b>Recurrent 2021/22</b></i>		<i><b>Capital 2021/22</b></i>		<i><b>Estimates 2021/22</b></i>	
		<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>	<i><b>K</b></i>
510	Anti-Corruption Bureau	4,458,063,402	-	-	-	4,458,063,402	
520	Legal Aid Bureau	1,447,137,263	-	-	-	1,447,137,263	
550	Office of the Ombudsman	916,501,579	-	-	-	916,501,579	
560	Malawi Law Commission	713,553,493	-	-	-	713,553,493	
601	Blantyre City Council	725,307,504	1,224,425,791	1,949,733,295			
602	Lilongwe City Council	578,314,120	1,896,994,997	2,475,309,117			
603	Mzuzu City Council	318,998,477	1,317,456,742	1,636,455,220			
604	Zomba City Council	238,479,099	364,936,041	603,415,140			
701	Kasungu Municipal	28,128,088	17,123,439	45,251,527			
702	Mangochi Town Council	30,354,502	17,123,439	47,477,941			
807	Luchenza Municipal	27,368,272	17,123,439	44,491,711			
901	Balaka District Council	7,909,630,177	152,735,419	8,062,365,596			
902	Blantyre District Council	15,429,920,440	137,035,743	15,566,956,184			
903	Chikwawa District Council	9,072,085,119	192,604,141	9,264,689,261			
904	Chiradzulu District Council	6,820,753,511	137,148,857	6,957,902,368			
905	Chitipa District Council	5,899,675,450	135,154,177	6,034,829,627			
906	Dedza District Council	11,638,927,355	234,093,477	11,873,020,832			
907	Dowa District Council	10,908,595,241	199,081,132	11,107,676,372			
908	Karonga District Council	7,337,576,949	149,108,243	7,486,685,192			
909	Kasungu District Council	13,940,243,962	223,564,457	14,163,808,419			
910	Likoma District Council	696,541,550	49,478,469	746,020,019			

**SCHEDULE—(continued)**  
**ESTIMATED EXPENDITURE ON RECURRENT AND CAPITAL ACCOUNTS**

<b><i>Vote</i></b>	<b><i>Voted Expenditure</i></b>	<b><i>Recurrent 2021/22</i></b>		<b><i>Capital 2021/22</i></b>		<b><i>Estimates 2021/22</i></b>	
		<b><i>K</i></b>	<b><i>K</i></b>	<b><i>K</i></b>	<b><i>K</i></b>	<b><i>K</i></b>	<b><i>K</i></b>
911	Lilongwe District Council	31,618,630,320		408,074,056		32,026,704,377	
912	Machinga District Council	10,332,490,425		210,751,563		10,543,241,988	
913	Mangochi District Council	15,104,344,555		304,804,383		15,409,148,938	
914	Mchinji District Council	9,630,000,805		180,028,617		9,810,029,422	
915	M'mbelwa District Council	19,848,286,444		268,118,790		20,116,405,233	
916	Mulanje District Council	11,109,568,652		228,144,419		11,337,713,070	
917	Mwanza District Council	3,420,205,634		95,225,388		3,515,431,022	
918	Neno District Council	3,671,356,889		114,166,640		3,785,523,529	
919	Nkhata Bay District Council	7,062,748,269		138,081,487		7,200,829,756	
920	Nkhotakota District Council	7,517,929,912		135,135,099		7,653,065,011	
921	Nsanje District Council	6,314,415,017		162,302,861		6,476,717,877	
922	Ntcheu District Council	10,447,715,358		181,194,359		10,628,909,717	
923	Ntchisi District Council	6,218,660,995		118,272,593		6,336,933,588	
924	Phalombe District Council	7,202,103,105		157,154,646		7,359,257,751	
925	Rumphi District Council	5,981,984,051		112,816,786		6,094,800,837	
926	Salima District Council	8,389,289,952		152,674,730		8,541,964,682	
927	Thyolo District Council	11,145,339,353		193,705,917		11,339,045,270	
928	Zomba District Council	14,595,492,920		223,549,523		14,819,042,443	
	<b>Total Voted Expenditure</b>	<b>1,114,076,417,819</b>		<b>463,299,875,948</b>		<b>1,577,376,293,767</b>	
	<b>GRAND TOTAL</b>	<b>1,531,646,420,813</b>		<b>463,299,875,948</b>		<b>1,994,946,296,761</b>	

Passed in Parliament this twenty eighth day of March, two thousand and twenty-two.

FIONA KALEMBA  
Clerk of Parliament

