

Malawi

## Riot Damages Act

### Chapter 14:10

Legislation as at 31 December 2014

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Riot Damages Act (Chapter 14:10)  
Contents

1. Short title ..... 1

2. Interpretation ..... 1

3. Restricted areas ..... 1

4. Powers in restricted areas ..... 2

5. Restriction on change of residence ..... 2

6. Declaration of riot damage area ..... 2

7. Riot Damage Commissioner ..... 2

8. Imposition and collection of levy ..... 3

9. Payment from the Riot Damage Fund ..... 4

10. Penalty ..... 4

# Malawi

## Riot Damages Act Chapter 14:10

Commenced on 15 July 1959

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

### An Act to Provide Compensation for Losses by Riots and of Matters Incidental Thereto

#### 1. Short title

This Act may be cited as the Riot Damages Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Commissioner**” means a Riot Damage Commissioner appointed under [section 7](#) (1);

“**District Commissioner**” shall, at any time when a District Commissioner is absent from the administrative headquarters of his District, mean the senior administrative officer present at such headquarters;

“**levy**” means a levy imposed under [section 8](#);

“**restricted area**” means any area declared to be a restricted area under [section 3](#);

“**riot**” includes an unlawful assembly, and “riotously assembled” includes unlawfully assembled;

“**riot damage area**” means an area so declared under [section 6](#).

#### 3. Restricted areas

- (1) Where any riot has occurred and by reason thereof any shop, house or other building has been damaged or destroyed, or any property or article has been damaged or destroyed, or any personal injury has been caused, the District Commissioner of the District in which such riot occurred may define any area in which, in his opinion—
  - (a) the riot occurred;
  - (b) the persons reported to have taken part in such riot were residing at the time of such riot,and may declare such area or areas to be a restricted area for the purposes of this Act.
- (2) The District Commissioner shall cause the declaration of a restricted area to be published in such manner as he may think necessary in order to bring it to the notice of all persons who, in his opinion, ought to have notice thereof.
- (3) Where any area has been declared under subsection (1), [sections 4](#) and [5](#) shall apply thereto for such period, not exceeding twenty-eight days, as the District Commissioner concerned shall specify:  
Provided that the Minister may at any time terminate such period as aforesaid.
- (4) Whenever a District Commissioner exercises any of the powers conferred by this section he shall forthwith make a report to the Minister.

#### 4. Powers in restricted areas

- (1) A District Commissioner may, subject to any general or special directions of the Minister, take such steps as may appear to him to be necessary to prevent or regulate ingress to and egress from any restricted area for such period as may be reasonably required to enable authorized officers to obtain the names, addresses and identifying particulars of all persons found within such area.
- (2) Any person who—
  - (a) uses force to enter or leave, or to attempt to enter or leave, any restricted area; or
  - (b) obstructs any authorized officer in the performance of his duties; or
  - (c) fails to obey any reasonable order given to him by an authorized officer for the purposes of this section; or
  - (d) fails to answer any question put to him by an authorized officer for the purposes of this section, or returns an untruthful answer to any such question,shall be guilty of an offence and may be arrested by an authorized officer without warrant.
- (3) For the purposes of this section, “authorized officer” means any administrative officer, police officer, or such other person, or class of persons, as the Minister may, by notice published in the *Gazette*, appoint.

#### 5. Restriction on change of residence

- (1) No person residing within a restricted area shall change his residence, within or without such area, without the written permission of the District Commissioner, or of any person authorized by the District Commissioner in that behalf.
- (2) The District Commissioner may, before written permission is given under subsection (1), require any person or class of persons who wishes to change his residence without a restricted area to deposit with such District Commissioner a sum not exceeding £5 to be used to defray any levy which may be imposed upon such persons.
- (3) Any portion of such deposit remaining after the payment of any levy imposed under [section 8](#), or, if no such levy be imposed, the whole of such deposit shall be repaid to the person making the same upon application being made to the office of the District Commissioner in that behalf.

#### 6. Declaration of riot damage area

- (1) Where any riot has occurred and by reason thereof any shop, house or other building has been damaged or destroyed, or any property or article has been damaged or destroyed, or any personal injury has been caused, the Minister may define the area in which, or in the neighborhood of which, the riot occurred and the area or areas in which he has reason to believe that substantial numbers of persons who were present at the riot were resident at the date thereof and may, by notice published in the *Gazette*, declare such area or areas to be a riot damage area for the purposes of this Act.
- (2) The Minister may, by notice published in the *Gazette*, direct that [section 5](#) shall apply *mutatis mutandis* to any riot damage area for such period as may be specified in such notice.

#### 7. Riot Damage Commissioner

- (1) The Minister may appoint any person to be a Riot Damage Commissioner in respect of any riot damage area.

- (2) It shall be the duty of a Commissioner to ascertain, in respect of the riot which resulted in the declaration of the riot damage area concerned and in so far as is practicable—
- (a) the total monetary value of the damage or destruction caused by, or the expenses incurred by reason of any personal injury received in, such riot;
  - (b) the total expenses which have been or may be incurred in connexion with such riot and the collection of any levy;
  - (c) the numbers of persons over the apparent age of seventeen years present or resident in such riot damage area at the time of such riot, with their names, addresses and identifying particulars;
  - (d) the number of persons who were present at such riot and the number of persons who were resident in such area at such time;
  - (e) the extent to which persons in the riot damage area failed to prevent the riot or failed to assist in the apprehension of those persons who were riotously assembled;
  - (f) the names of persons in the riot damage area who endeavored, in the course of such riot, to prevent damage, destruction or personal injury or to apprehend persons riotously assembled;
  - (g) such other matters as the Minister may direct or the Commissioner may consider expedient.
- (3) Sections 9,10, 11,12, 13 and 15 of the Commissions of Inquiry Act shall apply to a Commissioner and the proceedings before him as if he had been appointed under that Act.
- [Cap. 18:01]*
- (4) Any proceedings before a Commissioner shall be held in public but he may exclude any person or persons if he deems it expedient in the interests of public order, justice or for any other sufficient reason.
- (5) Upon completion of his inquiry, a Commissioner shall forthwith make a full report of his findings to the Minister.

## 8. Imposition and collection of levy

- (1) The Minister may direct the imposition of a direct levy of such amount as he may think fit upon each person whose name has been ascertained by the Commissioner under [section 7 \(2\) \(c\)](#), and may specify a date before which such levy shall be paid and the person or authority by whom it may be collected:
- Provided that—
- (a) the Minister may exempt any such person from the payment of such levy;
  - (b) the aggregate amount of the levies imposed in respect of any riot shall not exceed the total of the amounts ascertained by the Commissioner under [section 7 \(2\) \(a\)](#) and (b) in respect of such riot.
- (2) All monies collected as a result of the imposition of levies under this section shall be paid into a fund to be known as the Riot Damage Fund.
- (3) Any person who fails to pay a levy imposed under subsection (1) shall be guilty of an offence and upon conviction, or upon the making of an order under section 29 of the Penal Code in respect of such person, the court shall, in addition to or in lieu of any penalty imposed, make an order for the recovery of the amount of the levy from such person by distress failing the payment of such amount within three days after the date of such order.

*[Cap. 7:01]*

- (4) In any proceedings under subsection (3), the production of a document purporting to be signed by the Minister—
- (a) showing the names and other particulars of any person or persons upon whom a levy has been imposed under this section;
  - (b) setting forth the amount of such levy;
  - (c) specifying the date by which such levy should have been paid by such person or persons;
  - (d) specifying the person or authority by whom such levy was to have been collected,

shall be *prima facie* evidence that a levy of such amount has been imposed upon any such person or persons and of the other matters appearing therein.

## 9. Payment from the Riot Damage Fund

- (1) The Minister may direct that such sum as he thinks fit shall be paid from the Riot Damage Fund to any person who, before such date as the Minister may specify, satisfies any public officer nominated by the Minister in that behalf that he has suffered damage to property or has incurred expenses by reason of any personal injury received in a riot damage area as a direct result of the riot which resulted in the declaration of such riot damage area, or into the Consolidated Fund:

Provided that in fixing any such sum regard shall be had to the conduct of the said person, whether as respects the precautions taken by him or as respects his being a party or accessory to such riotous assembly, or as regards any provocation offered to the persons assembled or otherwise.

- (2) Any sum paid to any person under subsection (1) shall be taken into account, in any claim before a court, for the purpose of assessing the amount of damages, if any, to be awarded in any civil action arising out of the riot in respect of which such sum was paid.

## 10. Penalty

Any person guilty of an offence under this Act shall be liable to a fine of £10 and to imprisonment for three months.