

Malawi

## Capital City Development Corporation Act

### Chapter 39:02

Legislation as at 31 December 2014

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# Capital City Development Corporation Act (Chapter 39:02)

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# Malawi

## Capital City Development Corporation Act

### Chapter 39:02

Assented to on 2 April 1968

Commenced on 23 August 1968

*[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 for the establishment, development and Administration of a Capital City at Lilongwe and for the establishment of a Capital City Development Corporation and to define the functions of that Corporation and for purposes connected therewith and incidental thereto**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Capital City Development Corporation Act.

#### 2. Interpretation

In this Act, except where the context otherwise requires—

"**Capital City**" means the area of land designated by the President under [section 9](#) as the Capital City of Lilongwe;

"**Chairman**" means the Chairman of the Corporation designated under [section 4](#) and any person acting as such;

"**Corporation**" means the Capital City Development Corporation established under this Act;

"**development**" includes redevelopment;

"**financial year**" means such year or other period as the Minister may from time to time, by notice published in the *Gazette*, determine to be the financial year of the Corporation.

*[30 of 1969]*

### Part II – Establishment and conduct of corporation

#### 3. Establishment of the Corporation

There is hereby established the Capital City Development Corporation which shall be a body corporate by that name with perpetual succession and a common seal, with the power to alter and change the same from time to time and which shall, subject to this Act, be capable in law of suing and being sued, of acquiring, holding, letting and otherwise disposing of land, and of doing and performing such acts and things as bodies corporate may by law do and perform.

#### 4. Membership of Corporation

- (1) The Corporation shall consist of not less than six and not more than ten members, none of whom shall be a Minister or a member of the Parliament of Malawi.

- (2) Members of the Corporation shall be appointed by the Minister who shall designate one member to be the Chairman and another member to be the Deputy Chairman.
- (3) No person shall be appointed a member if he—
  - (a) has been adjudged or otherwise declared bankrupt under any law in force in any part of the Commonwealth and has not been discharged or has made a composition with his creditors and has not paid his debts in full;
  - (b) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Malawi;
  - (c) is under sentence of death imposed on him in a court in Malawi or is under sentence of imprisonment (by whatever name called) imposed on him by such court or substituted by competent authority for some other sentence imposed on him by such court.
- (4) A member shall hold office for two years from the date of his appointment unless he sooner resigns or his appointment is terminated by the Minister under [section 5](#).
- (5) The Chairman, Deputy Chairman and all other members shall be eligible for re-appointment at the conclusion of their respective terms of office.
- (6) No member shall participate in the consideration or discussion of or vote on any decision of the Corporation in respect of any matter in which he has a direct or indirect pecuniary interest.

*[28 of 1971]*

## 5. Resignation and vacation

- (1) A member may at any time by writing, under his hand addressed and delivered to the Minister, resign his membership.
- (2) A member shall vacate his membership if—
  - (a) any circumstance has arisen which if such person were not a member of the Corporation would cause him to be disqualified for appointment under [section 4](#);
  - (b) such member has been absent from three consecutive meetings of the Corporation without permission of the Chairman; or
  - (c) such member is in the opinion of the Minister unable or unfit to discharge the functions and duties of a member,and such member has been instructed by the Minister to vacate his membership.
- (3) When the Minister has terminated the appointment of any member under subsection (2) or when the Minister has received written resignation under subsection (1), the Minister shall declare the office of that member to be vacant and may fill such office by a new appointment. A person appointed under this subsection shall serve as a member for the unexpired portion of the term of the former member in whose place he has been appointed.

## 6. Remuneration

There shall be payable to a member out of the funds of the Corporation such remuneration and allowances, if any, in respect of his services as the Minister may from time to time determine.

## 7. Meetings

- (1) When the Chairman is temporarily absent from Malawi or is absent on leave within Malawi or is temporarily incapacitated from performing the functions of his office, all the powers and duties of the Chairman shall devolve upon the Deputy Chairman during such period of absence or incapacity and the Minister may appoint another member to be Deputy Chairman during such period.

- (2) When a member is temporarily incapacitated from performing his functions as a member by reason of his absence from Malawi or any other cause, the Minister may appoint a person to be a member during such period of incapacity and during such period all the powers and duties of the member so temporarily incapacitated shall devolve upon the member so temporarily appointed.
- (3) The Chairman shall, at any meeting of the Corporation, have an original vote and, where the votes are equally divided, a casting vote, in addition to his original vote.
- (4) Where upon any special occasion the Corporation desires to obtain the advice of any person on any particular matter, the Corporation may co-opt such a person to be a member of such meeting or meetings as may be required and such person while so co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.
- (5) Unless otherwise provided in standing orders made under [section 8](#), a quorum at a meeting of the Corporation shall be the Chairman and three members.
- (6) The Corporation shall meet at least quarterly and at such other times as may be required by standing orders made under [section 8](#).
- (7) Any four members may by notice in writing signed by them request the Chairman to call a special meeting of the Corporation for the purpose set out in such notice. On receipt of any such notice the Chairman shall call a special meeting. Such special meeting shall be called for a day that is not less than seven nor more than thirty days from the date on which the notice was received.

## 8. Standing orders

Subject to this Act, the Corporation may with the approval of the Minister from time to time make standing orders providing for—

- (a) the proper conduct of the business and meetings of the Corporation;
- (b) the method of entering into contracts and other legal transactions and the execution of documents connected therewith;
- (c) the signing of cheques and other similar instruments;
- (d) the execution of documents by an agent;
- (e) the procedure of any committee; and
- (f) the management and administration of the Corporation generally.

## Part III – Designation of Capital City etc.

### 9. Designation of Capital City and vesting of land

- (1) The President may, from time to time, by order designate any land to form part of the Capital City of Lilongwe.
- (2) The land so designated shall form part of the Capital City but such designation shall, subject to the Land Act, in no way affect the title of any person to any part of such land or any right of occupation thereof.

*[Cap. 57: 01]*

- (3) The President may, by order, vest in the Corporation such public land within the Capital City as is specified in the order and the reversion to any lease, issued by the Government or its predecessors in title, of any land in the Capital City specified in the order.
- (4) All land vested in the Corporation under subsection (3) shall remain subject to the overall authority of the Minister provided for in sections [10](#), [11](#) and [24](#).

- (5) When the reversion to any lease granted under the Land Act is or has been vested in the Corporation under subsection (3), the provisions of [section 6](#) and of Part IV of that Act shall, to such extent as the circumstances shall admit, continue to apply to such lease subject to the following modifications—
- (a) the rights, duties and powers of the Minister under such provisions (other than those under [section 15](#) (a) and (b)) shall from the time of such vesting be enjoyed, performed or exercised, as the case may be, by the Corporation;
  - (b) [section 13](#) shall not apply in relation to any implied covenants prescribed after the date of such vesting;
  - (c) [section 23](#) shall apply as if there were substituted for the words "addressed to him by prepaid registered post at the Central Government Offices, Zomba" the words "addressed by prepaid registered post to the Chairman of the Corporation at its principal office in Malawi"; and
  - (d) [section 24](#) shall cease to apply.

[Cap. 57: 01]

## Part IV – Purposes and powers

### 10. Purposes of Corporation

- (1) The purposes of the Corporation are, as agent of the Government and subject to the general and special directions of the Minister—
- (a) to administer and supervise the orderly construction, development and maintenance of the Capital City, including buildings for the Government and for industrial, commercial and other purposes, the construction, maintenance, repair and renewal of dwelling-houses, factories, stores and other buildings, roads, transport facilities, water supplies, surface drains, sewage disposal works and services of any other description and the provision of community centres, theatres, libraries, halls, gardens, swimming pools and amenities of every description;
  - (b) to promote and develop commercial and industrial activities in any area of the District of Lilongwe specified from time to time by the Minister and for any such purpose to acquire land, erect buildings thereon and otherwise develop such land;
  - (c) initiate, carry on, manage and dispose of any business, trade, industry, service, amenity or other enterprise approved by the Minister;
  - (d) with the prior approval of the Minister to acquire, hold, sell, let, donate or otherwise dispose of any land, building, enterprise or other property of the Corporation;
  - (e) to investigate and formulate schemes for any of the foregoing purposes and to do all manner of other things conducive or incidental to such purposes;
  - (f) to do such other things as the Minister may from time to time direct.
- (2) The Corporation shall not exercise its power to acquire, sell, let, donate or otherwise dispose of land or buildings except with the written approval of the Minister.
- (3) The Corporation may, with the approval of the Minister, do any of the things specified in subsection (1) either alone or in association with or as agent of any person.

### 11. Powers of Corporation

For any of the purposes specified in [section 10](#) the Corporation shall have power to—

- (a) purchase or sell any materials, stores, plant or equipment;

- (b) employ consultants;
- (c) undertake surveys and the preparation of plans and drawings;
- (d) charge fees;
- (e) do such other things as may be provided for under this Act or as are conducive or incidental to any of the purposes or powers of the Corporation.

## **Part V – Financial provisions**

### **12. Conduct of financial affairs**

- (1) Subject to the Finance and Audit Act and with the prior approval of the Minister, the Corporation may enter into agreements for the borrowing of money to enable the Corporation to fulfil its functions under this Act and it shall be the duty of the Corporation so to manage the exercise of its powers as to ensure that its revenues are not less than sufficient to enable the Corporation to repay such loans and the interest thereon when such repayments fall due.
- (2) For the purposes of fulfilling the duty specified in subsection (1), the Corporation shall charge to its revenue account in every year all expenses and charges which, in the normal conduct of a commercial business, are regarded as proper to be made to a revenue account, including, in particular, proper provision for depreciation or diminution of value of assets and for the redemption of loans at due times and all charges and expenses incurred in connexion with any loans and for transfers to the general reserve fund and such other reserves as may be approved by the Minister.
- (3) The sums transferred to the general reserve fund under subsection (2) may be used for the proper carrying out of the purposes of the Corporation, including the development of its undertakings.

*[Cap 37:01]*

### **13. Revenue of the Corporation**

- (1) The revenues of the Corporation shall include—
  - (a) the rents derived from all leases of land and buildings in the Capital City and in the District of Lilongwe the immediate reversion to which is vested in the Corporation or in the Government;
  - (b) all moneys derived from facilities, services and amenities provided by the Corporation and from any business or other enterprise carried on by the Corporation;
  - (c) such moneys as may be provided by the Government for revenue purposes;
  - (d) such other sources of revenue as may be approved from time to time by the Minister.
- (2) The Corporation may provide to any lender, with the prior approval of the Minister, a first or other charge upon the revenues of the Corporation to secure the repayment of a loan and the interest thereon.

### **14. Annual estimates**

- (1) The Corporation shall, before the beginning of each financial year, submit to the Minister estimates of capital and revenue expenditure and the financing thereof in such form as the Minister may approve.
- (2) The Corporation shall, whenever required to do so, furnish to the Minister such further information in relation to its receipts and expenditure as the Minister may require.
- (3) The Corporation shall not incur expenditure otherwise than in accordance with estimates approved by the Minister except with his approval in writing.



## 15. Keeping of accounts

- (1) The Corporation shall cause a true account to be kept of all its financial transactions during each financial year.
- (2) The Corporation may keep such special accounts, including capital and renewals accounts, as it may consider necessary, and shall keep such further or other accounts as the Minister may from time to time direct.
- (3) All accounts of the Corporation shall be open to inspection by any member.

## 16. Bank accounts

All moneys received by the Corporation shall, unless the Minister otherwise permits, be paid into an account of the Corporation with a bank registered under the Banking Act.

*[Cap. 44: 01]*

## 17. Investments

The Corporation may invest all or any of its moneys not immediately required for the purposes of the Corporation—

- (a) in the purchase of any security issued by the Government of Malawi;
- (b) in deposits in any bank or building society authorized to carry on business as such under any law for the time being in force in Malawi;
- (c) in such other manner as may be approved in writing by the Minister.

## 18. Security for loans

Loans made to the Corporation may be secured on the property and revenues of the Corporation.

## 19. Audit

- (1) The accounts of the Corporation shall be audited forthwith at the end of every one of the Corporation's financial years by an auditor approved by the Minister in accordance with such rules as may be made by the Minister.
- (2) The Corporation shall pay in respect of any audit held under this Part such fees, costs and expenses as may be approved from time to time by the Minister.
- (3) The auditor may by writing under his hand require the production of all books, deeds, contracts, vouchers, receipts and other documents relating to the accounts or investments of the Corporation which he may deem necessary for the purpose of the audit. He may summon in writing all such persons as he may think proper to appear before him personally, at the offices of the Corporation at a time to be fixed in such summons for examination in connexion with any documents or matter relating to the audit.
- (4) Any person who, without just cause, fails or refuses to produce any document the production of which has been duly required by the auditor, or who, having been so summoned—
  - (a) without just cause neglects or refuses to comply with the summons;
  - (b) having appeared before the auditor, without just cause refuses to be examined; or

- (c) without just causes refuses to answer such questions pertaining to the audit as are put to him,

shall be liable, for every such refusal or neglect incurred, to a fine of £50 and imprisonment for three months:

Provided that conviction under this section shall not exempt the person convicted from the liability to do or perform the act, matter or thing required of him.

## **20. Report of auditor**

- (1) After the completion of the audit of the accounts of the Corporation, the auditor shall report thereon in writing to the Corporation about the audit generally and on such specific matters in relation thereto as the Minister may direct. The Corporation shall take the report into consideration within two months after the date of the receipt thereof, and thereupon a copy of such report, together with the Corporation's comments thereon, shall be sent by the Corporation to the Minister.
- (2) The Minister shall forthwith lay before the National Assembly a copy of the accounts of the Corporation for each financial year, together with the auditor's report thereon.

## **Part VI – Staff and agents**

### **21. Employment of officers and staff**

- (1) The Minister may appoint and may terminate the appointment of a General Manager of the Corporation who may be the chief executive officer.
- (2) The Corporation may, with the approval of the Minister, appoint and terminate the appointment of any such other officers and servants as may be necessary for the due and proper carrying out of its purposes or the appropriate exercise of its powers.
- (3) The Corporation shall, with the approval of the Minister, regulate the duties, terms and conditions of service for all its officers.
- (4) No officer or servant of the Corporation shall have the right to bind the Corporation to the terms of any contract without the general or special authority of the Minister.
- (5) Any contract entered into in violation of subsection (4) shall be null and void.
- (6) Any member, officer, agent or servant of the Corporation shall, if so required by the Minister, take and subscribe before a commissioner for oaths such oath of fidelity or secrecy as the Minister may prescribe.

*[30 of 1969]*

### **22. Pensions and provident funds**

- (1) The Corporation may, with the approval of the Minister, establish and maintain pension, superannuation, provident and other funds as it may consider desirable for the provision of payments or other allowances on death, sickness, injury, superannuation, resignation or retirement or discharge of its officers and servants.
- (2) The Corporation may, with the approval of the Minister, make rules providing for the payment of moneys out of the revenue of the Corporation to such funds and providing for the contribution of moneys to such funds by the officers and servants of the Corporation, and contract with insurance companies and other bodies for the maintenance of such funds.

## 23. Agents

- (1) The Corporation may, with the consent of the Minister, entrust to and confer upon any person as agent of the Corporation any of the powers exercisable by the Corporation upon such terms and conditions as the Corporation may, with the approval of the Minister, think fit, but only collaterally with and not to the exclusion of the Corporation's own powers. The Corporation may from time to time revoke, withdraw, alter or vary any or all of such powers.
- (2) Any such agent shall receive such remuneration (whether by way of salary, fee, commission or participation in profits or partly in one way and partly in another) as may, subject to the approval of the Minister, be agreed between the agent and the Corporation.

## Part VII – General

## 24. Regulations

- (1) The Minister may, from time to time, make regulations for any of the purposes of this Act and to give effect to the provisions thereof.
- (2) Such regulations may require any person to comply with reasonable and proper requirements or directions of the Corporation of a nature similar to the requirements or directions of the by-laws of a local authority and may impose a penalty not exceeding a fine of £100 and imprisonment for six months, and may also impose a fine of £1 for every day during which an offence continues.
- (3) Such regulations may also provide for the recovery by the Corporation of its expenses arising out of any act or omission constituting an offence under the regulations.

## 25. Power of court to cancel licence or permit

Where any person is convicted of contravening or failing to comply with any condition subject to which a licence or permit has been granted to him under any regulation made under [section 24](#), the court which convicted him may, in addition to or in substitution for any penalty prescribed in such regulation, cancel the licence or permit in respect of which the offence was committed.

## 26. Minister may give directions

Without prejudice to any provision of this Act requiring the consent or approval of the Minister to be obtained for anything to be done by the Corporation, the Minister may give directions to the Corporation for restricting the exercise by it of its powers under this Act, or for requiring it to exercise those powers in any manner specified in the direction.

## 27. Dissolution of the Corporation

Where the Minister is satisfied that the purposes of the Corporation have been achieved or is satisfied that it should cease operating, the Minister shall by order provide for the winding up and dissolution of the Corporation. The assets of the Corporation at the time of dissolution shall, subject to the payment of the liabilities of the Corporation, be disposed of in the manner prescribed by the Minister.

## Notice (Section 2)

The Minister has determined that the financial year of the Corporation after the financial year ending on the 31st day of March, 1970, shall be the twelve month period commencing on the 1st day of April in each year.

[G.N. 246/1969]