

Malawi

## Export Promotion Council Act Chapter 39:03

Legislation as at 31 December 2014

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# Malawi

## Export Promotion Council Act Chapter 39:03

Assented to on 31 December 1971

Commenced on 31 December 1971

[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 of an Export Promotion Council of Malawi and for matters connected therewith and incidental thereto**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Export Promotion Council Act.

#### 2. Interpretation

In this Act unless the context otherwise requires—

“**Council**” means the Export Promotion Council of Malawi established by [section 3](#);

“**financial year**” means the period commencing on the date of commencement of this Act and ending on the 31st March, 1972, and thereafter the period of twelve months ending on the 31st March each year.

### Part II – The Council

#### 3. Establishment of Council

There is hereby established a body to be known as the Export Promotion Council of Malawi (hereinafter referred to as “the Council”) which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and, subject to this Act, of doing all such acts and things as a body corporate may lawfully do and perform.

#### 4. Composition of the Council

- (1) The Minister shall, by notice published in the *Gazette*, appoint the members of the Council other than the *ex officio* members.
- (2) The Council shall consist of—
  - (a) one member designated as Chairman by the Minister;
  - (b) one member designated as Vice-Chairman by the Minister;
  - (c) the Principal Secretary of the Ministry of Trade and Industry, *ex officio*;
  - (d) the Secretary to the Treasury, *ex officio*;
  - (e) the Chief Information Officer, *ex officio*;

- (f) the Chief Tourism Officer, *ex officio*;
  - (g) one member representing the Malawi Development Corporation, appointed from a panel of three individuals nominated by the said Corporation;
  - (h) one member representing the Chamber of Commerce and Industry of Malawi, appointed from a panel of three individuals nominated by the said Chamber of Commerce;
  - (i) one member representing the Tea Association (Central Africa) Limited, appointed from a panel of three individuals nominated by the said Association;
  - (j) one member representing the Tobacco Control Commission appointed from a panel of three individuals nominated by the said Commission;
  - (k) one member representing the Agricultural Development and Marketing Corporation, appointed from a panel of three individuals nominated by the said Corporation;
  - (l) three ordinary members.
- (3) The Minister may appoint to the Council such additional members as he deems essential to the Council in the exercise of its powers and functions.
- (4) No person shall be appointed to the Council who—
- (a) is an undischarged bankrupt;
  - (b) has, during the preceding three years, been sentenced for an offence against any written law to a term of imprisonment of, or exceeding, six months, otherwise than as an alternative to, or in default of, the payment of a fine;
  - (c) has, during the preceding five years, been convicted of an offence involving fraud or dishonesty.
- (5) Members of the Council shall not, by virtue only of their appointments to the Council, be deemed to be officers in the public service.
- (6) The names of all members of the Council as first constituted and every change in membership thereof shall be published in the *Gazette*.

## 5. Council may co-opt advisers to attend meetings

- (1) The Council may, with the consent of the Minister, co-opt any one or more persons as advisers, to attend any particular meeting or series of meetings for the purpose of assisting or advising the Council in respect of any matter under consideration by the Council.
- (2) Any adviser co-opted pursuant to subsection (1) may take part in the deliberations of the Council at any meeting he attends, but shall have no voting powers.
- (3) Advisers co-opted pursuant to subsection (1) shall not, by virtue of such co-option, be deemed to be members of the Council.

## 6. Tenure of office of Council members

- (1) Members of the Council, other than *ex officio* members, shall, subject to this section, hold office for two years from the date of their respective appointments.
- (2) *Ex officio* members of the Council shall hold office as such so long as they hold the public office by virtue of which they are members of the Council pursuant to [section 4](#).
- (3) The office of a member, other than an *ex officio* member, shall be vacated—
  - (a) upon the expiry of two years from the date of his appointment;
  - (b) upon his death;

- (c) if he is adjudged a bankrupt;
  - (d) if he is sentenced for an offence against any written law to a term of imprisonment of, or exceeding, six months, otherwise than as an alternative to, or in default of, the payment of a fine;
  - (e) if he is convicted of an offence involving fraud or dishonesty;
  - (f) in the case of a member other than the Chairman, if he is absent, without the permission of the Chairman, from three successive meetings of the Council of which he has notice;
  - (g) upon the expiry of one month's notice in writing of his intention to resign his said office given by him to the Minister;
  - (h) upon his being given notice by the Minister of the termination of his appointment;
  - (i) if, in the opinion of the Minister, he becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member of the Council;
  - (j) if the Minister, or the association by which he is nominated, is satisfied that the private interests of the member conflict or are liable to conflict with his duties as a member and that consequently it is inexpedient for him to continue to hold office as a member.
- (4) Upon the expiry of the period for which a member of the Council, who is not a member *ex officio*, is appointed he shall continue to hold office until his successor has been appointed, but in no case shall such further period exceed three months.
- (5) A retiring appointed member shall be eligible for reappointment if not disqualified under [section 4](#) (4).
- (6) Where the office of any member of the Council appointed under [section 4\(2\)\(g\)](#), [4\(2\)\(h\)](#), [4\(2\)\(i\)](#), [4\(2\)\(j\)](#) or [4\(2\)\(k\)](#) is vacated pursuant to subsection (3) of this section, the Minister shall require the relevant body to submit to him a panel of three names for the purposes of appointment of a new member.

[8 of 1980]

## 7. Remuneration of members of the Council

A member of the Council shall be paid by the Council such remuneration and allowances, if any, as the Minister may in his case fix.

[16 of 1983]

## 8. Meetings of the Council

- (1) The Council may meet at such places and times as the Chairman may determine or as he may be directed by the Minister, and shall meet at least once in every month unless, in the opinion of the Minister, there are valid reasons for not so doing.
- (2) Meetings of the Council shall be convened by at least two days' notice thereof in writing being given to the members by the Chairman.
- (3) The Chairman shall preside at meetings of the Council or, in his absence from any meeting, the Vice-Chairman, who, for the purposes of that meeting, shall exercise all of the powers and perform all of the duties of the Chairman.
- (4) The Chairman, or, in his absence, the Vice-Chairman, together with six other members shall form a quorum.
- (5) Meetings of the Council shall be conducted in such manner as may be directed by the Minister or, in the absence of such direction, in such manner as the Council deems meet.

- (6) Minutes of each meeting shall be kept by the Secretary and shall be confirmed at the succeeding meeting by the Chairman, or, in his absence, by the Vice-Chairman.
- (7) Decisions of the Council shall be made by a majority of the members present at a meeting of the Council; at all such meetings the person presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.
- (8) The Council may appoint an Executive Committee and such other committees as it may deem fit. The Executive Committee shall consist of not less than five members of whom any three shall form a quorum. The Council may, with the consent of the Minister, delegate to the Executive Committee such of its powers as it may from time to time determine.

## 9. Member to declare pecuniary interests

- (1) If a member of the Council or his spouse, or any company of which he or she is a director or major shareholder, or any partner of such member or of his spouse, has or acquires any pecuniary interest, direct or indirect, in any matter in which his private interests conflict with his duties as a member and which is the subject of consideration by the Council he shall, as soon as is practicable after becoming aware of such interest in such matter, disclose the facts relating thereto to the Chairman and to the Minister.
- (2) A member referred to in subsection (1) shall not take part in the consideration of, or vote on, any question before the Council which relates to the matter referred to in that subsection, without the written permission of the Chairman and the Minister.
- (3) For the purposes of this section, the expression “major shareholder” means any person who, at the relevant time, in his own right or by right of any other person, has the power to exercise or control not less than ten *per centum* of the voting rights in the relevant company, whether by reason of share holdings, debenture holdings, proxy or otherwise.

## Part III – Functions and powers of the Council

### 10. Functions and powers

- (1) The functions of the Council shall be to promote the export of agricultural and manufactured goods produced in Malawi, to co-ordinate the operations of statutory bodies and of other persons directed towards the export of Malawi products, to gather, collate and make available to exporters in Malawi information and statistics on export marketing and export market trends; to organize and operate trade fairs inside or outside Malawi and to organize and arrange for representation by Malawi exhibitors at trade fairs organized by other bodies both in Malawi and elsewhere, and otherwise to implement Government export policy.
- (2) The Council shall have the powers set out in the Schedule.
- (3) The Minister may, at any time, by notice published in the *Gazette*, alter or amend the Schedule.

## Part IV – Funds of the Council

### 11. Funds of the Council

The funds of the Council shall consist of—

- (a) such sums as may be payable to the Council from moneys appropriated by Parliament for the purpose;
- (b) such moneys or assets as may accrue to or vest in the Council whether in the course of the exercise of its functions or powers, or otherwise;

- (c) such moneys or other assets as may accrue to or vest in the Council by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or royalties, from the Government or any other person;
- (d) such sums as are derived from the sale of any property, real or personal, by or on behalf of the Council;
- (e) such sums as are received by the Council by way of voluntary contributions;
- (f) such moneys or other assets as may be donated to the Council by any foreign government, international agency or other overseas body.

## 12. Annual budget

The Council shall draw up, in respect of each financial year, an annual budget showing the estimated expenditure on capital and revenue account, respectively, and shall submit the said budget for the approval of the Minister.

## 13. Books, accounts, audit and reports

- (1) The Council shall cause to be kept proper books of account and other books in relation thereto.
- (2) The accounts of the Council shall be audited annually by professional auditors appointed by the Council with the approval of the Minister. The expenses of the audit and incidental thereto shall be paid from the funds of the Council.
- (3) The Council shall, as soon as is practicable, but not later than six months after the end of each financial year, submit to the Minister an annual report upon its work and operations.
- (4) Such report shall include a balance sheet, an income and expenditure account and the annual report of the auditors, and shall be laid by the Minister before the National Assembly pursuant to section 32F of the Finance and Audit Act.

[Cap. 37: 01]

## 14. Regulations

The Minister may, by notice published in the *Gazette*, make regulations for the better carrying into effect of this Act.

## Schedule (Section 10)

### Powers of the Council

- 1. To appoint and employ, with the approval of the Minister, a General Manager, Deputy General Manager, Executive Secretary and such professional, technical and administrative officers, clerks and other servants as it may deem requisite.
- 2. To pay any person in its employ such salary, wages or other remuneration as it may deem fit, and to grant him such leave as it may deem fit.
- 3. To provide for persons in its employ or their dependants, by means of insurance with an insurance company or a pension or provident fund or in any other manner whatsoever, pecuniary benefits upon retirement, death or termination of service or in the event of any sickness or injury.
- 4. To purchase, take on lease or in exchange or otherwise acquire dwelling-houses for persons in its employ.
- 5. To purchase land and construct thereon dwelling-houses for persons in its employ.
- 6. To sell or lease dwelling-houses and land for residential purposes to persons in its employ.

7. Subject to the Finance and Audit Act to raise moneys by way of loan or bank overdraft.

*[Cap. 37: 01]*

8. To purchase, take on lease or in exchange, hire, or otherwise acquire any real or personal, movable or immovable property, and any rights or privileges in or over any such property, which it considers necessary for the purpose of performing its functions.
9. To construct, maintain, alter and improve any buildings, works, machinery and plant necessary or expedient for the purpose of performing its functions.
10. To work or otherwise beneficially use, to exchange, let, sell or mortgage any property, rights or privileges acquired or constructed under paragraphs 4, 5, 8 or 9.
11. To invest and deal with any of its moneys not immediately required in such securities and in such manner as it may think fit and to vary or realize such investments.
12. To invite and receive donations from any person towards its expenses and to award bursaries and to make grants towards export marketing research or to any other such project as it deems conducive towards the promotion of export marketing.
13. To enter into agreements to facilitate the voluntary transfer of professional, technical or other staff between itself and any other employer.
14. For the better performance of its functions, to co-operate with Government departments, universities, technical colleges, persons engaged in export marketing research, Chambers of Commerce, manufacturers, exporters, producers and such other associations, organizations or persons as may desire to avail themselves of its facilities inside and outside Malawi.
15. To obtain and collate all available information concerning export market opportunities for existing and potential Malawi export goods, and to advise exporters thereon.
16. To organize, or assist in the organization of, export promotion missions abroad.
17. To make available to Malawi commercial firms and to potential exporters from Malawi, advice and assistance in relation to international trade and all aspects of such trade.
18. To advise the Minister, whenever so requested by him, on such export incentives as, in its opinion, are desirable to further and promote exports from Malawi.
19. To advise the Minister on export trends and on all matters concerning the promotion of exports from Malawi.
20. To publish from time to time, such technical and commercial information as it deems necessary or expedient for the promotion of exports.
21. To do all things incidental or conducive to the performance of its functions under this Act and its approved programme of export promotion.

*[G.N. 46/1986]*