

Malawi

National Library Service Act

Chapter 31:01

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Malawi

National Library Service Act

Chapter 31:01

Commenced on 23 February 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 control and regulation of the National Library Service, to establish the National Library Service Board and to provide for matters incidental thereto and connected therewith

1. Short title

This Act may be cited as the National Library Service Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**Board**" means the National Library Service Board established by [section 3](#);

"**Executive Secretary**" means the Executive Secretary of the National Library Service appointed under [section 6](#);

[9 of 1986]

"**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 Board.

[30 of 1969]

3. Establishment of Board

- (1) There is hereby established a Board, which shall—
 - (a) be a body corporate by the name of the National Library Service Board, with perpetual succession and a common seal;
 - (b) in its corporate name be capable of suing and being sued; and
 - (c) be capable of holding, purchasing and otherwise acquiring, and disposing of any property, moveable or immovable, for the purposes of, or in the course of, the carrying out of its functions.
- (2) The Schedule shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Board.
- (3) The Minister may, on the advice of the Board, by Order amend the Schedule.

4. Functions of Board

- (1) The functions of the Board shall be to promote, establish, equip, manage, maintain and develop libraries in Malawi.
- (2) The Board shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be necessary, desirable, advantageous or convenient for or in connexion with the

carrying out of its functions or to be incidental or conducive to their proper discharge, and may carry on any activities in that behalf either alone or in association with any other person or body (including the Government or a local authority).

- (3) For the avoidance of doubt it is hereby declared that the powers of the Board referred to in subsection (2) relate only to its capacity as a body corporate and nothing in that subsection shall authorize the disregard by the Board of any written law.

5. Report by Board

The Board shall, within six months after the end of each financial year, make a full report to the Minister on the conduct of its business during that year, and the Minister shall lay a copy thereof before the National Assembly.

6. Appointment of Executive Secretary and other staff

- (1) Subject to subsection (2), the Board may appoint an Executive Secretary of the National Library Service who shall be the chief executive officer of the Board and who shall be entitled to be present and to speak, but not to vote, at meetings of the Board.
- (2) The appointment of the Executive Secretary and his terms and conditions of service shall be subject to the approval of the Minister.
- (3) The Board may from time to time appoint, on such terms and conditions as it thinks fit, such officers, clerks and servants as it considers necessary for carrying out its functions under this Act.
- (4) The Board may appoint from among its members a working committee, of such composition and with such powers as the Board may determine, for the purpose of assisting or advising the Executive Secretary in his day to day administration of the National Library Service.

[9 of 1986]

7. Funds of the Board

The funds and resources of the Board shall consist of—

- (a) such sums as may be provided by Parliament for the purposes of this Act;
- (b) any sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to the carrying out of its functions;
- (c) any sums or property which may be donated to the Board:

Provided that the Board shall not be obliged to accept a donation for a particular purpose unless it approves of the terms and conditions attached to such donation.

8. Investment

- (1) The Board may, with the approval of the Minister and subject to such conditions as he may impose, invest such part of its funds as are not for the time being required for the purposes of its business.
- (2) The powers of the Minister under this section shall be exercised with the concurrence of the Minister for the time being responsible for Finance and shall extend to the amount which may be invested, the nature of the investment and the terms and conditions thereof, and the Minister's approval may be either general or limited to a particular investment.

9. Accounts and audit

- (1) The Board shall keep proper accounts and other records in relation thereto and shall prepare in respect of each financial year of the Board a statement of accounts in a form approved by the Minister, being a form which conforms with the best commercial standards.

- (2) Subject to any direction made by the Minister for the time being responsible for Finance under section 45 of the Finance and Audit Act the accounts of the Board shall be audited by auditors appointed annually by the Minister.

[Cap. 37:01]

- (3) As soon as the accounts of the Board for a financial year have been audited, the Board shall cause to be sent to the Minister a copy of the statement of accounts prepared in respect of that year together with a copy of any report made by the auditors on the statement or on the accounts.
- (4) The Minister shall, within a period of six months (or such longer period as the National Assembly may, by resolution, appoint) after the end of the financial year to which the accounts relate, lay a copy of every such statement and report before the National Assembly.

10. Execution of documents

- (1) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Board—
- (a) if sealed with the common seal of the Board and signed by two members thereof; or
 - (b) if executed in that behalf by one member of the Board appointed by the Board for that purpose and by the Executive Secretary or any member of the staff of the Board acting in that office.

[9 of 1986]

- (2) A deed, instrument, contract or other document executed in accordance with subsection (1) shall, subject to any exception that may be taken thereto on any ground other than that of the competence of the party executing the same on behalf of the Board, be effectual in law to bind the Board and its successors thereto and may be varied or discharged in like manner as that in which it was executed.

11. Regulations

The Minister, acting on the advice of the Board, may make regulations—

- (a) for the better management and control of any library managed by the Board;
- (b) for protecting any such library, and fittings, furniture and contents thereof, from damage;
- (c) requiring the giving of a guarantee or security by any person using any such library;
- (d) prescribing any fees and penalties to be paid by any person borrowing books from any such library; and
- (e) generally for the better carrying out of the purposes of this Act.

Schedule (Section 3(2))

Constitution and proceedings of the Board

[G.N. 15/1979]

1. Constitution

- (1) The Board shall consist of the following members appointed by the Minister—
- (a) a Chairman;
 - (b) a representative of the Ministry for the time being responsible for Education;

- (c) a representative of the Ministry for the time being responsible for Local Government;
 - (d) a representative of the Ministry for the time being responsible for Development and Planning;
 - (e) a representative of the Lilongwe City Council;
 - (f) a representative of the Mzuzu City Council;
 - (g) a representative of the Blantyre City Council;
 - (h) a representative of the University of Malawi;
 - (i) a representative of the British Council;
 - (j) a representative of the Department of Information;
 - (k) a representative of each of the three Regions;
 - (l) a representative of the Education Secretary General, Catholic Schools;
 - (m) a representative of the Education Secretary General, Christian Council.
- (2) A member of the Board shall, subject to the power of the Minister at his discretion sooner to terminate his appointment, or unless he otherwise ceases to be a member, hold office for such period as the Minister may specify in his appointment or, if no such period is specified, for a period of three years from the date of his appointment, and shall be eligible for re-appointment.
- (3) Any member of the Board may at any time resign by giving notice in writing to the Minister, and from the date specified in the notice he shall cease to be a member of the Board.
- (4) If any member of the Board is, without the permission of the Board, absent from more than four consecutive meetings of the Board or, without such permission, is absent from Malawi for a period exceeding one year he shall cease to be a member of the Board.

2. Casual vacancies

Where any member of the Board ceases to be a member before the normal expiration of his term of office, the Minister, after consulting the Board, may appoint another person in his stead to hold office until such first-named person's term of office would have expired had he not ceased to be a member as aforesaid.

3. Quorum and procedure

- (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business.
- (2) At any meeting of the Board seven members thereof shall constitute a quorum.
- (3) The Board may elect any member thereof to be Vice-Chairman of the Board.
- (4) At any meeting of the Board the Chairman shall preside or, in the absence of the Chairman, if a Vice-Chairman has been elected the Vice-Chairman shall preside or, if no Vice-Chairman has been elected or if the Vice-Chairman is also absent, the members present at the meeting shall elect one of their number to be Chairman for that meeting.
- (5) In the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to his deliberative vote.
- (6) Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman of that meeting.
- (7) Subject to this paragraph and to any directions given by the Minister, the Board may regulate its own procedure.

- (8) The Board may in its discretion invite any person to attend a meeting of the Board, and such person may, with the consent of the Chairman of the meeting, speak but shall have no power to vote at that meeting.

4. Vacancies, etc., not to invalidate proceedings

Subject to the provisions of paragraph 3 relating to a quorum, the Board may act notwithstanding any vacancy in the membership thereof and no act or proceeding of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member thereof.

5. Remuneration and expenses

The members of the Board shall be paid out of the funds thereof such expenses as the Minister may from time to time determine.