

Malawi

Malawi Book Service Act

Chapter 30:03

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Malawi Book Service Act

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Commenced on 1 April 1964

[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 the Malawi Book Service and for the establishment of a Board of Management thereof and for matters connected therewith and incidental thereto

1. Short title

This Act may be cited as the Malawi Book Service Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**African Book Centre**” means the unincorporated body known as “The African Book Centre”, established in 1949 as an agency of the Northern Rhodesia and Nyasaland Publications Bureau to distribute and sell the products of that Bureau;

“**Board**” means the Board of Management of the Malawi Book Service appointed under [section 4](#) (2);

“**educational supplies**” means books, stationery, furniture, equipment, visual aid apparatus and educational aids of every kind habitually used or capable of being used in the course of or for the purpose of providing or assisting in the provision of instruction in schools or other educational establishments;

“**Malawi Book Service**” means the Malawi Book Service established under [section 3](#);

“**member**” includes the chairman of the Board.

3. Establishment of Malawi Book Service

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

4. Constitution of Board

- (1) The operation of the Malawi Book Service shall, subject to this Act, be controlled by a Board of Management.
- (2) (a) The Board shall consist of the following members appointed at his discretion by the Minister—
 - (i) a chairman;
 - (ii) a vice-chairman;
 - (iii) not less than four or more than five other members as the Minister may determine.

- (b) Every member of the Board shall hold office for two years and subject thereto shall hold office in accordance with such terms and conditions as the Minister may at his discretion attach to his appointment.
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 - (c) Any member of the Board may resign from the Board on giving notice thereof in writing to the Minister.
 - (d) Any member of the Board shall on the termination of his appointment be eligible for re-appointment.
- (3) The chairman shall preside over meetings of the Board, but in his absence the vice-chairman shall act as chairman, and in the absence of both chairman and the vice-chairman from any meeting of the Board the members present shall elect one of their number to perform the functions of chairman.
- (4) The Minister may appoint alternate members to act in case any member of the Board is unable to be present at any meeting of the Board through illness or for any other cause.
- (5) The decisions of the Board shall be taken by a majority of the votes of the members present and voting:
- Provided that—
- (a) the chairman at any meeting shall have a casting as well as a deliberative vote;
 - (b) no member of the Board shall take part in the consideration or discussion of or vote upon any decision of the Board on any matter in which he has any pecuniary or other personal interest, direct or indirect.
- (6) The validity of any proceedings of the Board shall not be affected by any vacancy among the members thereof, or by any defect in the appointment of any member thereof.
- (7) The members of the Board may be paid such allowances or reimbursements as the Minister may from time to time authorize.
- (8) The Board may from time to time, and subject to this Act, make standing orders for regulating—
- (a) The mode and order of proceedings of the Board;
 - (b) the quorum necessary to constitute the meetings of the Board;
 - (c) the method of convening such meetings;
 - (d) the place of such meetings; and
 - (e) any other matters relating to the proper conduct of the business of the Board and its meetings.

5. Disqualification of members of the Board

No person shall be eligible for appointment as a member of the Board who—

- (a) is an undischarged bankrupt; or
- (b) is a person of unsound mind; or
- (c) is serving a sentence of imprisonment; or
- (d) has been convicted of an offence involving dishonesty.

6. Transfer of assets and liabilities of the African Book Centre to the Board

- (1) Such assets and liabilities of the African Book Centre as the Minister, after consultation with the Minister of Finance, shall decide shall be vested in the Board with effect from such date as the Minister may appoint.
- (2) All mortgages, bonds, charges, agreements, contracts or other instruments, and all commercial arrangements subsisting immediately before the date of the coming into operation of this Act, shall be of as full force and effect against, or in favour of, as the case may be, the Malawi Book Service and enforceable as fully and effectually as if, instead of the African Book Centre, the Malawi Book Service had been therein named and had been a party thereto.
- (3) Any legal proceedings or cause of action pending or subsisting immediately before the date of the coming into operation of this Act by or against the African Book Centre may be continued or enforced by or against the Malawi Book Service as it might have been by or against the African Book Centre if this Act had not been passed.

7. Functions of the Board

The functions and duties of the Board shall be—

- (a) to serve, assist and promote the educational system and organization of Malawi by acting as central suppliers of educational supplies to schools and other educational establishments in Malawi;
- (b) to provide, as wholesalers and distributors, educational supplies and, where necessary or desirable, to retail traders of educational supplies;
- (c) to carry on the business both wholesale and retail of booksellers, stationers and dealers in educational supplies of all kinds;
- (d) to carry on the business of publishers, and to undertake such other operations, directly or necessarily ancillary to those set out in the foregoing paragraphs, as the Minister may from time to time direct.

8. Officers and employees of the Malawi Book Service

- (1) The Board shall, with the prior approval of the Minister, appoint a general manager who shall be responsible to the Board for the day-to-day administration of the affairs of the Malawi Book Service and for its organization and efficient management for the due execution of its functions.
- (2) The Board shall appoint a secretary to the Board.
- (3) At the discretion of the chairman, the general manager and the secretary shall be entitled to attend all meetings of the Board. At any meeting of the Board the general manager shall be entitled to speak on the matters then under consideration by the Board, but neither the general manager nor the secretary shall be entitled to vote upon any matter under consideration by the Board.
- (4) The Board shall have power to appoint such other staff as may from time to time be required for the due carrying out of the functions of the Malawi Book Service.
- (5) The Board, with the prior approval in writing of the Minister, shall settle the remuneration, terms and conditions of service of its officers and employees. In settling the remuneration, terms and conditions of service of the general manager and other of its officers or employees, the Board shall have due regard to the remuneration, terms and conditions of service of persons in positions of similar responsibility, or in like employment, in the public service.
- (6) The Malawi Book Service, acting through the Board, may establish and maintain pensions, superannuation or other funds for the provision of benefits or allowances on death, resignation, retirement or discharge of its officers or employees. Subject to the prior approval in writing of the Minister, the Board may make rules for the payment of moneys out of the general revenue of

the Board to such funds as aforesaid, and for the contribution of moneys to such funds by officers or employees. The Board may contract with insurance or other companies for the maintenance, guarantee or provision of benefits secured or intended to be secured by such funds:

Provided that any such contracts shall be subject to the prior approval in writing of the Minister after consultation and agreement with the Minister of Finance.

- (7) The Board may accept and appoint on secondment, or by such other arrangements as may be deemed suitable, the services of officers in the public service to any appointment in the service of the Malawi Book Service including that of general manager or secretary:

Provided that the Board shall undertake to reimburse and indemnify the Government in respect of the costs and expenses of such officers in relation to their remuneration, superannuation, allowances or other benefits to which they may be entitled as officers in the public service.

9. Financial provisions

The annual revenue of the Malawi Book Service shall include—

- (a) all income received from the sale of educational supplies or from such other commercial transactions as the Malawi Book Service may lawfully engage in;
- (b) such grants, aids or advances as may be received from the Government or from private sources; and
- (c) such income from the rents from real or leasehold property investments or other sources as may accrue to the Malawi Book Service.

10. Financial policy

- (1) The Malawi Book Service shall be a self-accounting body and shall so regulate and manage the conduct of its business that taking one year with another—
 - (a) its revenue is sufficient for meeting all expenditure properly chargeable to or against its revenue; and
 - (b) sufficient provision is made for depreciation of its assets.
- (2) Save insofar as is required by subsection (1), the making of a profit in any year shall not be a primary object or consideration of the Malawi Book Service.

11. Advances by Government

It shall be lawful for the Malawi Book Service to obtain from time to time, with the prior consent in writing of the Minister of Finance, from the Government advances of money required for the proper carrying out of the functions and duties of the Malawi Book Service in accordance with this Act. Any moneys or advances and any interest accruing thereon shall be a liability of the Malawi Book Service and shall be, and for all purposes deemed to be, the first charge on all the property, real, chattel-real and personal, of the Malawi Book Service present or to come.

12. Access to commercial credit facilities

It shall be lawful for the Board to have access to and use such commercial credit facilities as will make financial subventions to the Malawi Book Service by the Government unnecessary, or which will substantially reduce the amount of such financial subventions. The use of such commercial credit facilities by the Malawi Book Service shall in every case be subject to the prior approval in writing of the Minister, after consultation and agreement with the Minister of Finance.

13. Borrowing powers

- (1) Subject to this section and to any law for the time being generally regulating the borrowing powers of statutory corporations, the Malawi Book Service may raise loans either by way of charge on its property and assets, by bank overdraft or by the use of other usual commercial credit facilities, for the purpose of meeting any of its obligations or discharging any of its functions. The power of the Board in this behalf shall be exercisable only with the prior approval in writing of the Minister, after consultation and agreement with the Minister of Finance.
- (2) Where any such loan shall be received by means of the issue of stock, the provisions of any law for the time being in force relating to the issue of stock by statutory corporations, the provisions to be made for the payment of interest thereon and for the redemption of such stock at the time or times appointed for repayment, and the proceedings to be taken in case of default shall apply.

14. Transfer of functions

The Minister may by Rules make provision consequential on the assumption by the Malawi Book Service of its functions, under this Act for—

- (a) the transfer to the Malawi Book Service of property of every kind, whether real, chattel-real or personal, invested in or, as the case may be, incurred by or in the name of the African Book Centre; and
- (b) enabling any proceedings previously instituted by or against the African Book Centre to be carried on by or against the Malawi Book Service; and
- (c) any other matters necessary, incidental or conducive to the performance of the foregoing matters.

15. Acquisition of land

The Lands Acquisition Act shall apply to the Malawi Book Service as if it were a company within the meaning of that Act.

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16. General powers of the Minister

Subject to this Act, the Malawi Book Service in the performance of its functions and in the exercise of any power conferred upon it by this Act, shall be subject to the general or specific directions of the Minister.

17. Account and reports

- (1) The Board shall—
 - (a) keep proper accounts;
 - (b) keep proper records relating to the accounts and to the proceedings of the Board;
 - (c) prepare for inspection each financial year a statement of accounts in such form as the Minister may direct.
- (2) The accounts of the Malawi Book Service shall be audited annually by auditors to be appointed annually by the Board.
- (3) In every year, within three months after the end of the financial year, the Board shall—
 - (a) prepare a general report of its proceedings during the financial year; and
 - (b) transmit to the Minister that report together with a certified copy of the audited accounts of the Malawi Book Service and the Minister shall lay on the table of the National Assembly copies of that report and a certified copy of the audited accounts.

18. Legal proceedings

In any legal proceedings brought by or against it the Malawi Book Service shall appear by and act through any legal practitioner qualified to practise law in Malawi.

19. Indemnity for all acts done *bona fide*

- (1) No act or thing done by any member of the Board or by any officer or employee of the Board, or other person acting under the direction of the Board, shall, if the act or thing was done *bona fide* for the purpose of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.
- (2) All expenses incurred by any such member, officer or person as is mentioned in subsection (1) for the purpose of carrying this Act into effect, shall be paid out of moneys provided by Parliament.
- (3) Nothing in this section shall be construed to exempt any member of the Board or any officer or employee of the Board from liability to be surcharged with the amount of any payment which may be disallowed by the audit or in the accounts of the Malawi Book Service, and which that particular officer or employee authorized or joined in authorizing.

20. Regulations

The Minister may make such Regulations as he may deem expedient to give force or effect to this Act or for its better administration.