

Malawi

## Post Office Savings Bank Act

### Chapter 44:03

Legislation as at 31 December 2014

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# Malawi

## Post Office Savings Bank Act

### Chapter 44:03

Assented to on 21 December 1967

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 establishment and administration of a Post Office Savings Bank and for matters incidental thereto**

#### 1. Short title

This Act may be cited as the Post Office Savings Bank Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**account**” means an account in the Savings Bank;

“**Board**” means the Post Office Savings Bank Board established under [section 4](#);

“**officer**” means any person employed or assigned in connexion with any business of the department responsible for postal services;

“**principal office**” means the principal Office of the Savings Bank situated in such place as the Postmaster-General may by notice, from time to time, specify;

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“**Savings Bank**” means the Post Office Savings Bank deemed to be established under [section 3](#);

“**Savings Bank year**” means the period of twelve months beginning on the 1st January in any year and ending on the 31st December next following.

#### 3. Establishment of Savings Bank

- (1) The Post Office Savings Bank of Malawi, hereinafter referred to as the former Savings Bank, subsisting immediately before the commencement of this Act by virtue of the Post Office Savings Bank Ordinance (now repealed), hereinafter referred to as the repealed Ordinance, shall be deemed to be the Post Office Savings Bank established and constituted under this Act.
- (2) Any person who, immediately before the commencement of this Act, had money in an account with the former Savings Bank shall be deemed to have such money in an account in the Post Office Savings Bank under this Act.
- (3) The Post Office Savings Bank established and constituted under this Act shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name and which, subject to this Act, may acquire, hold or dispose of moveable and immoveable property for the purpose of its functions.

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*[29 of 1954(F)]*

#### 4. Establishment of Board

- (1) There is hereby established a Post Office Savings Bank Board which shall consist of the following members—
  - (a) the Secretary to the Treasury or his representative, who shall be Chairman;
  - (b) the Governor of the Reserve Bank of Malawi or his representative;
  - (c) the Postmaster-General or his representative; and
  - (d) two other members appointed by the Minister and holding office at the Minister's pleasure.
- (2) The Chairman and any two other members shall constitute a quorum at any meeting of the Board, and unless otherwise provided or determined by the Board, the decision of the majority of the members present and voting at any meeting shall constitute a decision of the Board. The Chairman shall have a deliberative vote and, in addition, in the event of an equality of votes, a casting vote.
- (3) Meetings of the Board shall be called by the Chairman and shall be conducted in such manner as the Board may, from time to time, determine.
- (4) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the members, and all *bona fide* acts or proceedings of the Board shall be valid notwithstanding any defect that may afterwards be discovered in the appointment of any member of the Board.
- (5) The Chairman may invite any person to attend a meeting of the Board, and any such person attending a meeting of the Board shall have the right to address the Board but not to vote on any matter before the Board.

#### 5. Functions of Board

In addition to any functions conferred on it by this Act or any regulations made thereunder, the Board shall be responsible for the policy and general administration of the Savings Bank, and with regard to these matters the Postmaster-General shall, in the exercise of his functions under this Act or any regulations made thereunder, be subject to any special or general directions of the Board.

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#### 6. Management of Savings Bank

- (1) Subject to this Act and any regulations made thereunder, the Postmaster-General shall be responsible for the day to day management and control of the Savings Bank and may take such steps as may be necessary or desirable for the encouragement of thrift, for the proper management of the Savings Bank and otherwise for the promotion of the objects and purposes of this Act.
- (2) The Postmaster-General may open offices or branches of the Savings Bank at any place in Malawi and may close such offices or branches, and may cause the business of such offices or branches to be conducted on such days and during such hours as he considers necessary or desirable.
- (3) The Postmaster-General shall make available to the Savings Bank such officers as are necessary or desirable for the efficient conduct of the business of the Savings Bank.

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#### 7. Reserve Fund and Accumulated Deficit Fund

- (1) Profits of the Savings Bank in any year shall, after being used to offset any balance in the Accumulated Deficit Account, be placed to the credit of the Reserve Fund which shall be established for that purpose.

- (2) Losses of the Savings Bank in any year shall be debited to the Reserve Fund:
- Provided that if at any time the losses exceed the balance in the Reserve Fund, or if there is no balance in the Reserve Fund, such losses or such excess losses shall be charged to the Accumulated Deficit Account which shall be established for that purpose.
- (3) Any profits or losses of the former Savings Bank subsisting immediately before the commencement of this Act shall be credited or debited in respect of the Savings Bank in accordance with subsections (1) and (2).

## 8. Security of moneys deposited and expenses

- (1) The repayment of all moneys deposited in the Savings Bank together with interest thereon shall be guaranteed by the Government.
- (2) Where, at any time, the funds of the Savings Bank immediately available are insufficient to meet the lawful claims on an account, or to defray expenses, the deficiency shall be charged upon and paid out of the Consolidated Fund, and a report of such deficiency and payment shall be included in the annual report of the Savings Bank submitted to the Minister under [section 11](#):
- Provided that where sufficient funds are subsequently available, the sums charged upon and paid out of the Consolidated Fund shall so far as possible be repaid to the Consolidated Fund by the Savings Bank.
- (3) For the purposes of subsection (2) “expenses” means the cost of all works done or services rendered in connection with the Savings Bank, including such sum or sums on account of administrative and other overhead expenses as may, with the approval of the Minister, be reasonably assigned to those works or services.

## 9. Investment of moneys

- (1) Except to the extent of any sums required to be kept in hand for the day to day running and administration of the Savings Bank, the Postmaster-General shall, with the approval of the Board, invest the moneys held by the Savings Bank (which shall, for this purpose, include moneys in the Reserve Fund) in all or any of the following ways—
- (a) in Treasury Bills or other securities issued by the Government or for which the Government is responsible;
  - (b) on deposit with the Reserve Bank of Malawi or with the Crown Agents for Oversea Governments and Administrations;
  - (c) on deposit with any registered commercial bank, financial institution, discount house or accepting house carrying on business in Malawi;
  - (d) with a building society registered in Malawi;
  - (e) in any other securities that may be approved by the Minister.
- (2) The Postmaster-General may, with the approval of the Board, and subject to this section, realize or otherwise deal with investments of Savings Bank moneys.
- (3) Any investments of the former Savings Bank which by virtue of this Act become the property of the Savings Bank may be retained by the Postmaster-General or realized or dealt with by him notwithstanding that they do not come within any of the classes or categories of investments specified in subsection (1).
- (4) Any sums of money that may, from time to time, be required for the repayment of deposits under this Act or any regulations made thereunder, or for payment of interest thereon, or expenses under

section 8, or repayments to the Consolidated Fund, may be raised by the sale of the whole or any part of the investments referred to in subsection (1).

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## 10. Interest

- (1) Interest shall, subject to any regulations made by the Minister under section 14, be payable on deposits with the Savings Bank at such rate as the Minister shall from time to time, by notice published in the *Gazette*, determine:

Provided that no decrease in the rate of interest payable under this subsection shall take place unless at least one month's notice of such decrease has been given in the *Gazette*.

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- (2) Interest on deposits shall, subject to any regulations made by the Minister under section 14, be calculated to the 31st December in each year and shall then be added to and become part of any principal money remaining on deposit, and any reference to deposit or deposits shall, unless the context otherwise requires, include any interest so added to the principal money.

## 11. Accounts not operated on for fifteen years

- (1) Where, for a period of fifteen years there have been no transactions on an account, or the pass book relating to such account has not been presented to the principal office, the account shall cease to bear interest from the expiration of such period of fifteen years:

Provided that such account shall not cease to bear interest unless and until the Postmaster-General, by notice published in the *Gazette*, specifying the account concerned, has given six months' notice of his intention to apply this subsection.

- (2) Where, upon the expiration of a further period of fifteen years after the expiration of the period of fifteen years referred to in subsection (1), there have still been no transactions on the account concerned, or the pass book has not been presented to the principal office, a sum equal to the amount standing to the credit of the account shall be transferred to the Reserve Fund, and the account shall be closed. Subsequent claims in respect of the account may be permitted by the Postmaster-General at his discretion.

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## 12. Books, accounts, records and reports

- (1) The Postmaster-General shall keep or cause to be kept proper books of account and all other records necessary properly to reflect all the operations and transactions of the Savings Bank.
- (2) The accounts of the Savings Bank shall be audited annually by the auditors appointed from time to time by the Board with the approval of the Minister.
- (3) The General Manager shall as soon as possible and not later than six months after the end of each financial year, prepare, or cause to be prepared, and submit to the Minister, audited annual accounts which shall include the following statements—
  - (a) the balance sheet as at the last day of the financial year;
  - (b) the income and expenditure account for the year;
  - (c) the Reserve Fund or Accumulated Deficit Account;
  - (d) the depositors account showing deposits and withdrawals made during the year and the balance due to depositors at the close of the year;

- (e) a schedule of the securities in which Savings Bank funds are invested at the close of the year; and
  - (f) a report on the year's activities and such other information as may be required under this Act, or as the Minister may direct.
- (4) As soon as practicable the Minister shall lay before the National Assembly a copy of the annual accounts and report, together with the report of the Auditor General.

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### 13. Determination of disputes

If any dispute arises between the Postmaster-General and any person having an account or any executor, administrator, trustee, or next-of-kin of such person, or any person appointed by a court to manage the affairs of such person, or any creditor, official receiver or trustee of any such person who has become bankrupt or insolvent, or any person claiming to be such executor, administrator, next-of-kin, manager, creditor, official receiver or trustee, or to be entitled to any moneys deposited in the Savings Bank, the matter so in dispute shall be referred in writing to the High Court, and the Court may inquire into and determine the matter in dispute, and such determination and adjudication in regard thereto shall be final and conclusive and binding on the parties.

*[19 of 1993]*

### 14. Regulations

The Minister may, in consultation with the Board, make regulations for the better carrying into effect of the provisions and purposes of this Act, and without prejudice to the generality of the foregoing, such regulations may provide for the regulation or control of all or any of the following matters—

- (a) deposits by minors, guardians, trustees, married women, friendly societies, charitable bodies or any other persons or bodies of persons of whatever description;
- (b) conditions for the withdrawal of moneys by minors, guardians, trustees, married women, friendly societies, charitable bodies or any other persons or bodies of persons of whatever description;
- (c) methods and the manner of dealing with the deposits of deceased persons, or persons presumed to be deceased, or insane or otherwise incapacitated persons;
- (d) the form of acknowledgement which shall be evidence of claims to repayment of deposits with interest thereon;
- (e) the maximum and minimum amounts which may be deposited or withdrawn at any one time;
- (f) the maximum amounts which may be paid into an account in any one year;
- (g) the withdrawal of moneys from accounts;
- (h) the fees leviable under this Act;
- (i) the remittance of deposits to the principal office by officers;
- (j) the manner in which accounts shall be kept and the inspection and supervision thereof;
- (k) forms for the purposes of this Act or any regulations made thereunder;
- (l) the persons or classes of persons who shall not be entitled to open accounts;
- (m) the calculation and payment of interest on accounts allowing for non-payment of interest on accounts below a prescribed minimum, and in respect of deposits made or withdrawn other than on the first or last day of a month, as the case may be.

*[44 of 1971]*

## 15. Remittances to and from other savings banks

- (1) Where the Postmaster-General, with the approval of the Minister, has entered into reciprocal arrangements with any other country for the purposes of this section the Postmaster-General may, subject to the provisions of any written law relating to exchange control, permit transfer of moneys from an account in the Savings Bank to a post office savings bank account in such other country, or from a post office savings bank account in such other country to an account in the Savings Bank:

Provided that no amount shall be so credited which would make the total amount standing to the credit of an account exceed the maximum aggregate amount allowed to be deposited in an account under this Act.

- (2) The conditions under which transfers may be made under this section shall be such as the Postmaster-General may, with the approval of the Board, decide.

*[19 of 1993]*

## 16. Disclosure of information

- (1) No officer shall disclose the name of any person having an account, or depositing or withdrawing money in or from an account, or the amount which may have been deposited or withdrawn by any person, or any other information regarding transactions with the Savings Bank except—
- (a) to the Postmaster-General or such officer as he may appoint to assist in carrying out the purposes and provisions of this Act;
  - (b) when required by order of a court or under any written law;
  - (c) when required by the Attorney General for the purpose of an investigation or prosecution of an alleged offence:

Provided that nothing in this section shall be deemed to limit the authority of the Auditor General to require disclosure of such accounts and documents as may be necessary to enable him to carry out the duties imposed upon him by or under any written law.

- (2) Any person who contravenes this section shall be liable to a fine of K200.

*[19 of 1993]*

## 17. Exemption from stamp duty

No stamp duty shall be payable on any form prescribed for the use or purposes of the Savings Bank.

## 18. Indemnity in certain circumstances

When any payment is made or any act done by the General Manager or any officer acting under this authority in accordance with this Act, the Savings Bank, the General Manager, and such officer shall not be liable in respect of any claim on the part of any person in connexion with such payment or act, without prejudice to any right of such person to recover any sum lawfully due to him from the person to whom the Postmaster has paid the same:

Provided that nothing in this section shall be construed as exempting any officer from liability for damage or loss caused to any person by reason of fraud or theft committed by such officer in relation to or in connexion with his official duties.

*[44 of 1971]*

*[19 of 1993]*



**19. Authorization of payment for loss**

Where a person suffers any loss from his account without any fault or neglect on his part, the Postmaster-General may, at his discretion, authorize the payment to such person of the amount of the loss, or any part thereof, from the funds of the Post Office Savings Bank.

*[44 of 1971]*

*[19 of 1993]*