

Malawi

Local Government Act

Chapter 22:01

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Local Government Act

Contents

Part I – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – Local government areas	1
Objectives and areas	1
3. Objectives of local government	1
4. Local government areas	2
Constitution and functions	2
5. Composition of the Council	2
6. Functions of the Council	2
7. Chairman and Vice-Chairman of the Council	3
8. Procedure at meetings of the Council	3
9. Mayor and Deputy Mayor	3
10. Elected members	4
11. Designation of head of the Council	4
Part III – Proceedings of the Council	4
12. Disclosure of interest	4
13. Procedure	4
Part IV – Discharge of functions	5
14. Service committees	5
15. Delegation to committees, etc.	5
16. Appointment of committees	6
17. Expenses of joint committees	6
18. Disability from voting on account of pecuniary interests	6
19. Standing Orders	6
20. Monitoring of Council decisions	6
21. Prohibition orders	7
22. Evidence of resolutions	7
23. Admission to meetings	8
Part V – Powers of the Council	8
24. General powers	8
25. Staff regulations	8
26. Remuneration of officers	8
27. Secondment of public officers	9

28. Secondment and exchange of staff	9
29. Security in relation to officers	9
30. Appointment to be on merit	9
31. Members not to be employees	9
32. Disclosure of interest by employees, etc.	9
33. Oath of secrecy	9
34. Acquisition of land by agreement	9
35. Disposal of land	10
36. ***	10
37. Supply of goods and services	10
38. Contracts	10
39. Contributions to concurrent expenditure	10
40. Power in respect of emergencies or disasters	10
41. Acceptance of gifts of property	11
42. Provision of information	11
43. Subscriptions to associations	11
Part VI – Financial provisions	11
44. Sources of revenue	11
45. Secretariat of the Local Government Finance Committee	12
46. General fund and special funds	12
47. Council to open bank account	12
48. Overdrafts	12
49. Power to borrow	12
50. Investment of funds	12
51. Annual and supplementary estimates	13
52. Reallocation of approved estimates	13
53. Accounts	13
54. Audit of accounts	13
55. Local Government Finance Committee may disallow or surcharge	13
56. Power of Minister to give financial instructions	14
57. External assistance	14
58. Assistance from Non-Governmental Organizations	14
59. Financial year	14
60. Superannuation and retirement provisions	14
Part VII – Valuation and rating	14

61. Application	14
62. Definitions	15
63. Assessable property	15
64. Levy of fixed sums	16
65. Preparation of valuation rolls	16
66. Supplementary valuation	16
67. Valuer	17
68. Method of valuation	17
69. Supplementary valuation roll to be part of main roll	18
70. Alteration of valuation roll	18
71. Correction of errors	18
72. Effective date of supplementary valuation roll	18
73. Powers of entry	19
74. Provision of information to valuer	19
75. Deposit of valuation roll	19
76. Objection to valuation roll	20
77. Valuation rolls to be conclusive evidence	20
78. Payment of rate pending the hearing of an objection or an appeal	20
78A. Valuation Tribunal	20
78B. Proceedings of a Valuation Tribunal	21
78C. Consideration of objectives by the Valuation Tribunal	21
79. Duty to levy rates	22
80. Period of rate	22
81. Date on which rate is payable	22
82. Notice of rate	23
83. Remission of rate	23
84. Exempted properties	23
85. Government to pay rates	23
86. Payment of rates	24
87. Liability for rates	24
88. Rates records	24
89. Evidence of rate	24
90. Rate to be a charge upon the property	24
91. Seizure of property in default	25
Part VIII – General provisions relating to the Council	25

92. Legal proceedings	25
93. Documents and notices, etc.	26
94. Inspection of documents	26
95. Copies of documents	26
96. Reports and returns	26
97. Service of notices on the Council	26
98. Public notices	26
99. Service of notices by the Council	27
100. Authentication of documents	27
101. Powers of entry	28
102. Obstruction of officers on duty	28
103. By-laws	28
104. Procedure for by-laws	28
105. Offences against by-laws	29
106. Evidence of by-laws	29
107. Computation of time	29
Part IX – Miscellaneous provisions	29
108. Status	29
109. Honorary appointments	29
110. Inquiries	30
111. Transfer of staff	30
112. Penalties	31
113. Expenses	31
114. Repeal and savings	31
First Schedule	32
Second Schedule	33
Third Schedule	44

Malawi

Local Government Act

Chapter 22:01

Commenced on 8 March 1999

[This is the version of this document at 31 December 2017.]

[Note: This version of the Act was revised and consolidated in the Forth Revised Edition of the Laws of Malawi (L.R.O. 1/2015), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

[42 of 1998; 5 of 2001; 17 of 2010; 10 of 2017; G.N. 8/1999; 59/2000; 67/2017]

An Act to amend and consolidate the law relating to local government and to provide for the matters connected therewith or incidental thereto.

Part I – Preliminary

1. Short title

This Act may be cited as the Local Government Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"Council" means a Council specified in the second column of the First Schedule;

"Immediate family member", in relation to any person, means that person's spouse, child, parent, brother or sister;

"local government authority" means a District Council, Town Council, Municipal Council or City Council constituted under this Act;

[10 of 2017]

"Local government area" means an area under the jurisdiction of a District Council, Municipal Council or City Council.

[17 of 2010]

Part II – Local government areas

Objectives and areas

3. Objectives of local government

The objectives of local government shall be to further the constitutional order based on democratic principles, accountability, transparency and participation of the people in decision-making and development processes.

4. Local government areas

- (1) For the administration of local government, there shall be local government areas which shall comprise the areas respectively described in the first column of the First Schedule.
- (2) The Minister may, from time to time, by order published in the *Gazette* declare any local government area to be a township or a municipality.
- (3) The President may, by order published in the *Gazette*, confer the title and dignity of "City" on any Municipality.
- (4) The President may, by notice published in the *Gazette*, amend the First Schedule.

Constitution and functions

5. Composition of the Council

- (1) For every local government area, there shall be a Council consisting of—
 - (a) one member elected from each ward within the local government area;
 - (b) Members of Parliament from the constituencies that fall within the local government area, as voting members, *ex officio*;
 - (c) Traditional Authorities from the local government area, as non-voting members, *ex officio*; and
 - (d) five persons, as non-voting members, to be appointed by the elected members to cater for the interests of such special interest groups as the Council may determine.
- (2) Each Council shall be a body corporate by the name "The District Council of..." or "The Town Council of..." or "The City Council of..." or "The Municipal Council of..." as the case may be, with the addition of the name of the particular district, town, municipality or city.

[17 of 2010]

6. Functions of the Council

- (1) The Council shall perform the following functions—
 - (a) to make policy and decisions on local governance and development for the local government area;
 - (b) to consolidate and promote local democratic institutions and democratic participation;
 - (c) to promote infrastructural and economic development through the formulation, approval and execution of district development plans within its jurisdiction;
 - (d) to mobilize resources within the local government area for governance and development;
 - (e) to maintain peace and security in the local government area in conjunction with the Malawi Police Service.
 - (f) to make by-laws for the good governance of the local government area;
 - (g) to appoint, develop, promote and discipline its staff;

- (h) to cooperate with other Councils in order to learn from their experiences and exchange ideas; and
 - (i) to perform other functions including the registration of births and deaths and participate in the delivery of essential local services.
- (2) In addition to the functions specified in subsection (1), the Council shall also perform the functions stated in the Second Schedule.
[Second Schedule]
- (3) The Minister may, on the written request of a Council, exempt the Council from any of the functions specified in the Second Schedule.
[Second Schedule]
- (4) The Minister may, by notice published in the *Gazette*, amend the Second Schedule.
[Second Schedule]
[17 of 2010]

7. Chairman and Vice-Chairman of the Council

- (1) Members of the Council shall, at their first meeting elect, from amongst their number other than members *ex officio*, a Chairman and a Vice-Chairman.
- (2) The Chairman shall be the head of the Council.
- (3) The Chairman shall be responsible for the observance of the provisions of this Act and shall provide leadership in the Council.
- (4) The Chairman and Vice Chairman shall each serve in their respective capacities for a period of one year, unless sooner replaced, and shall be eligible to be re-elected for one additional term; but so, however, that in the case of a City Council or a Municipal Council, the Chairman and Vice Chairman shall serve for a period of two and half years, unless sooner replaced and shall be eligible to be re-elected for one additional term.
[17 of 2010]
- (5) The Council shall pay the Chairman, the Vice-Chairman and other members of the Council such allowances as the Minister may, on the recommendation of the Local Government Finance Committee, determine.
[17 of 2010]

8. Procedure at meetings of the Council

- (1) The procedure to be followed at meetings of the Council shall be as laid down in Standing Orders made by the Council under [section 19](#).
- (2) At a meeting of the Council, one-third of the elected members shall form a quorum.

9. Mayor and Deputy Mayor

The Chairman and Vice-Chairman of a City Council or Municipal Council may have the title of Mayor and Deputy Mayor, respectively and any reference in this Act to the Chairman or Vice-Chairman of the Council may be construed as including a reference to the Mayor and Deputy Mayor.

10. Elected members

A member of the Council referred to in [section 5\(1\)\(a\)](#) shall be elected in accordance with the Local Government Elections Act.

[Cap. 22:02]

11. Designation of head of the Council

- (1) There shall be in the Council an officer designated as Chief Executive Officer, in the case of a City, Municipal or Town Council, and as District Commissioner, in the case of a District Council, who shall be the head of the Secretariat of the Council.
- (2) The Chief Executive Officer or the District Commissioner shall be appointed by the Minister.
- (3) Any person holding a post of Director grade in the Council shall be appointed by the Local Government Service Commission.
- (4) The Minister shall have power, on the recommendation of the Local Government Service Commission, to transfer from one Council to another any person holding the post of Chief Executive, District Commissioner or Director in a Council.
- (5) The Chief Executive Officer or District Commissioner of the Council, as the case may be, shall, subject to the general or special direction of the Council, be responsible for—
 - (a) implementing the resolutions of the Council;
 - (b) the day to day performance of the executive and administrative functions of the Council;
 - (c) the supervision of the departments of the Council; and
 - (d) the proper management and discipline of the staff of the Council.

[5 of 2001; 17 of 2010]

Part III – Proceedings of the Council

12. Disclosure of interest

- (1) If any member is present at a meeting of the Council or of any committee of the Council at which is the subject of consideration is a matter in which any that member or his immediate family member or his professional or business partner is directly or indirectly interested in a private or professional capacity, he shall, as soon as is practicable after the commencement of the meeting, disclose such interest and, unless the Council or committee otherwise directs, that member shall not take part in any consideration or discussion of, or vote on, any question touching on such matter.
- (2) The Chairman may request a member who has declared an interest under subsection (1) to leave the meeting during the time the Council is considering the matter in respect of which the interest was declared.
- (3) A disclosure of interest shall be recorded in the minutes of the meeting at which it is made.

13. Procedure

Subject to the other provisions of this Act, the Council may regulate its own procedure.

Part IV – Discharge of functions

14. Service committees

- (1) The Council shall establish the following committees—
 - (a) the Finance Committee;
 - (b) the Development Committee;
 - (c) the Education Committee;
 - (d) the Works Committee;
 - (e) The Health and Environmental Committee; and
 - (f) The Appointments and Disciplinary Committee.
- (2) The Council may establish other committees at local government area level.
- (3) The Council may establish such other committees at ward, area or village level as it may determine.
- (4) The composition of service committees and the committees established under subsections (2) and (3) shall be determined by the Council.
- (5) A service committee or other committee established under subsections (2) and (3) may in its discretion at any time and for any period invite any person to attend any meeting of such committee and take part in the deliberations at the meeting, but such person shall not be entitled to vote at the meeting.

15. Delegation to committees, etc.

- (1) Subject to any express provisions of this Act, the Council may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the Council:
Provided that the Council shall not delegate its powers to—
 - (a) make by-laws and Standing Orders;
 - (b) borrow money;
 - (c) levy a rate; and
 - (d) acquire and dispose of land.
- (2) Where under this section any functions of the Council may be discharged by a committee of the Council, then, unless the Council otherwise directs, the Committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the Council and where any functions of the Council may be discharged by a sub-committee of the Council, then unless the Council or the sub-committee otherwise directs, the sub-committee may arrange for the discharge of any of those functions by an officer of the Council.
- (3) Any arrangement made by the Council or a committee for the discharge of any functions by a committee, sub-committee, officer of the assembly shall not prevent the Council by whom the arrangements are made from exercising those functions.
- (4) Two or more Councils may discharge any of their functions jointly and, where arrangements are in force for them to do so, the Councils may also arrange for the discharge of those functions by a

joint committee of theirs or by an officer of one of them and subsection (2) shall apply in relation to those functions as it applies in relation to the functions of the individual Councils.

[10 of 2017]

16. Appointment of committees

- (1) For the purpose of discharging any functions in the pursuance of arrangements made under [section 15](#)—
 - (a) the Council may appoint a committee of the Council; or
 - (b) two or more Councils may appoint a joint committee of the Councils; or
 - (c) any such committee may appoint one or more sub-committees.
- (2) The number of members of a committee appointed under subsection (1), their term of office, and the area within which the committees may exercise their authority shall be fixed by the appointing Councils or, in the case of sub-committees, by the appointing committee.
- (3) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing Council or one of the appointing Councils shall upon ceasing to be a member of that Council also cease to be a member of the committee.
- (4) The Council may invite any person to attend a meeting of a committee:
Provided that such person shall not be entitled to vote.

17. Expenses of joint committees

The expenses incurred by a joint committee of two or more Councils shall be defrayed by those Councils in such proportions as the Councils may agree.

18. Disability from voting on account of pecuniary interests

Sections [12](#) and [15](#) shall apply in respect of members of a committee of the Council or of a joint committee of two or more Councils, including in either case a sub-committee, as they apply in respect of members of the Council subject to references to meetings of any such committee being substituted for references to meetings of the Council.

19. Standing Orders

The Council shall make Standing Orders for the regulation of such matters as may be necessary for the purposes of this Act.

20. Monitoring of Council decisions

- (1) It shall be the duty of the Chief Executive Officer of the Council if at any time it appears that any proposal, decision or omission by the Council or by any committee, sub-committee or officer of the Council has given rise to or is likely to give rise to—
 - (a) a contravention of this Act or any other written law, Standing Order, by-law or regulation;
or
 - (b) any maladministration or injustice, to prepare a report to the Council with respect to that proposal, decision or omission.

- (2) It shall be the duty of the Council to consider such report at a meeting held not more than fourteen days after copies of the report are first sent to the Council.
- (3) The implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day on which consideration of that report has been concluded.

21. Prohibition orders

- (1) Where the Council—
 - (a) is about to make or has made a decision which involves or would involve the Council incurring expenditure which is unlawful; or
 - (b) is about to take or has taken a course of action which if pursued to its conclusion would be unlawful or likely to cause a loss or deficiency; or
 - (c) is about to take or has taken a course of action which if pursued to its conclusion would be unlawful or contrary to national policies, the Minister may issue an order requiring the Council to desist from making or implementing the decision or taking or continuing to take the course of action.
- (2) Where the Council wilfully or negligently fails to comply with the order made by the Minister under subsection (1), the Minister may—
 - (a) surcharge the Council for the amount incurred as a result of the decision made; and
 - (b) surcharge the Council for the amount of loss or deficiency arising out of the course of action taken.
- (3) Where the Council contravenes the provisions of [section 21\(1\)\(c\)](#), the Minister may suspend the Council.
- (4) Where the Council has been suspended under subsection (3), the Minister shall appoint a Commission which shall have the full powers to run the affairs of the Council until a decision of the High Court on whether the Council has acted unlawfully or contrary to national policies, or elections for a new Council are held, as the case may be.
- (5) Where the Minister suspends the Council under subsection (3), the High Court shall, on the motion of the Minister or a member of the Council, determine whether the Council acted unlawfully or contrary to national policies.
- (6) Where the High Court determines that a Council has acted unlawfully or contrary to national policies, the President shall dissolve the Council and elections for a new Council shall be held within ninety days from the date of dissolution.

22. Evidence of resolutions

A document which—

- (a) purports to be a copy of the resolution, order or report of the Council or the minutes of a meeting of the Council; or
- (b) bears a signature purporting to be signed by the Chief Executive Officer or District Commissioner of the Council or a person authorized in that behalf by him or the Council, shall be *prima facie* evidence in any proceedings of the matters stated in the document.

[5 of 2001]

23. Admission to meetings

- (1) The meetings of the Council including meetings of any committee, sub-committee or joint committee shall be open to the public and the press.
- (2) The Council may by resolution exclude the public and the press whether during the whole or part of the proceedings whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or the proceedings and where such a motion is passed the meeting shall not be open to the public or the press during proceedings to which the resolution applies.
- (3) Where a meeting of the Council is required to be open to the public and the press the following provisions shall apply—
 - (a) a notice of the time and the place of the meeting shall be given by posting it at the offices of the Council three clear days before the meeting; and.
 - (b) while the meeting is open to the public and the press, the Council shall not have power to exclude from the meeting members of the public, and duly accredited representatives of the press attending for the afforded reasonable facilities for making their report, including the provision of the agenda and reports to be considered at such meeting.

Part V – Powers of the Council

24. General powers

- (1) A Council shall have power to—
 - (a) subject to [section 49](#), borrow or lend money; and
 - (b) acquire or dispose of any property or rights which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the functions of the Council.
- (2) The Council shall not by virtue of this section raise money, whether by means of rates or borrowing, or lend money except in accordance with the Finance and Audit Act.
[Cap. 37:01]
- (3) The Council shall have power to appoint and employ such persons holding a post grade below that of Director as are necessary for the proper discharge by the Council of its functions.
- (4) The Council shall have further powers and functions as contained in the Second Schedule to this Act.

25. Staff regulations

The Council shall make regulations determining the conditions of service of the officers of the Council.

26. Remuneration of officers

The Council shall, subject to approval by the Minister, determine the salaries and allowances payable to its employees.

[17 of 2010]

27. Secondment of public officers

Upon the request of the Council, a public officer may be seconded to the Council for such periods and upon such terms and conditions as may be agreed between the Council and the organization from which that officer is seconded.

28. Secondment and exchange of staff

The Council may enter into an agreement with another Council whether in Malawi or elsewhere for the secondment of any officer or exchange of officers for the purposes of their functions or for training on such terms as may be provided in the agreement.

29. Security in relation to officers

The Council shall, in case of an officer entrusted with the custody or control of money or property, take such security, as the Council may consider necessary.

30. Appointment to be on merit

Every appointment of staff to a paid office of the Council shall be on merit.

31. Members not to be employees

A member of the Council shall neither be an employee of the Council nor serve on full time basis.

32. Disclosure of interest by employees, etc.

- (1) An employee of the Council or a consultant in the service of the Council who, or whose immediate family member is directly interested in a private or professional or official capacity in any matter being considered by the Council, shall disclose such interest.
- (2) A disclosure of interest made under this section shall be made to the chief Executive Officer or District Commissioner of the Council who shall take such decision as he considers appropriate in each case and submit a report thereon to the Council.

[5 of 2001]

33. Oath of secrecy

Every—

- (a) member of the Council;
 - (b) member of a committee of the Council;
 - (c) employee of the Council; and
 - (d) consultant in the service of the Council,
- shall, upon assumption of his office, take such oath of secrecy as may be approved by the Council or as may otherwise be prescribed under this Act.

34. Acquisition of land by agreement

- (1) For the purpose of—

- (a) any of its functions under this Act or any other written law; or
 - (b) the benefit, improvement or development of its area, the Council may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area.
- (2) Subject to the provisions of the Lands Acquisition Act, the Council may acquire land for any purpose for which the Council is authorized by this Act to acquire land, notwithstanding that the land is not immediately required for that purpose; and until it is required for the purpose for which it was acquired under this subsection, the land may be used for the purpose of any of the Council's functions.

[10 of 2017; Cap. 58:04]

35. Disposal of land

The Council may dispose of land held by it in accordance with the provisions of the Land Act and the Registered Land Act.

[10 of 2017; Cap. 57:01; Cap. 58:01]

36. ***

[Repealed by 10 of 2017]

37. Supply of goods and services

The Council may enter into an agreement with another person for all or any of the following—

- (a) the supply by or to the Council of any goods and materials;
- (b) the provision by or to the Council of any administrative, professional, or technical services;
- (c) the use of any vehicle, plant, or apparatus and the services of persons employed to operate such vehicle, plant or apparatus; and
- (d) the maintenance of any land or building.

38. Contracts

- (1) The Council may enter into contracts with any person for the provision or management of any service by that person which the Council is empowered by this Act to provide or manage.
- (2) The procedure for the making of contracts by the Council shall be laid down in Standing Orders made under [section 19](#).

39. Contributions to concurrent expenditure

Two or more Councils may make arrangements for defraying any expenditure incurred by one of them in exercising any functions exercisable by both or all Councils.

40. Power in respect of emergencies or disasters

- (1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and the Council is of the opinion that it is likely to affect the whole or part of its area or all or some of its inhabitants, the Council may—

- (a) incur such expenditure as the Council considers necessary in taking action either alone or jointly with any other person or body which is calculated to avert, alleviate or eradicate in its area or among its inhabitants the effects or potential effects of the event; and
 - (b) make grants or loans to other persons or bodies on conditions determined by the Council in respect of any such action taken by those persons or bodies.
- (2) The Council shall be responsible for making disaster-preparedness plans in accordance or conformity with any written law relating to or likely to affect their area of jurisdiction.

41. Acceptance of gifts of property

Subject to the provisions of this section the Council may accept, hold and administer—

- (a) for the purpose of discharging any of its functions, gifts of property, whether real or personal, made for that purpose; or
- (b) for the benefit of the inhabitants of its area or of some part of its area gifts made for that purpose, and may execute any work including works of maintenance or improvement incidental to or consequential upon the exercise of the powers conferred by this section.

42. Provision of information

- (1) The Council shall arrange for the publications within its area, of information related to local government, and shall make or assist in making arrangements whereby the public may readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the Council.
- (2) The Council shall publish not later than six months after the end of each financial year an annual report of its work and of the local government affairs of its area for the preceding financial year, and a copy of such report shall be—
 - (a) delivered to the Minister;
 - (b) deposited at every public office of the Council and be made available for inspection free of charge by any interested person during normal hours of business; and
 - (c) supplied to any person or to the press or other news media upon application on payment of such fee, if any, as the Council may prescribe.

43. Subscriptions to associations

The Council may pay reasonable subscriptions to associations as it shall determine.

Part VI – Financial provisions

44. Sources of revenue

- (1) The sources of revenue for the Council to finance its operations shall be those stated in the Third Schedule.
- (2) The Minister may, in consultation with the Minister responsible for finance, amend the Third Schedule.

- (3) The Minister may, subject to such terms and conditions as may be agreed upon with an appropriate public body, authorize that body to collect on behalf of the Council any revenue from the sources listed in the Third Schedule.
- (4) The distribution of Government grants to the Council shall be done by the Government upon the recommendation of the Local Government Finance Committee in accordance with a formula approved by the National Assembly.

45. Secretariat of the Local Government Finance Committee

The Local Government Finance Committee shall have a permanent Secretariat which shall be headed by a Fund Administrator.

46. General fund and special funds

- (1) The Council shall establish and maintain a general fund and all monies received by the Council by way of revenue and grants shall be paid into such fund, and all expenses incurred by the Council in the execution of the powers and duties conferred upon the Council by or under this Act shall be defrayed out of such fund.
- (2) The Council shall have power to create such special funds as it may deem necessary.
- (3) The Council may, from time to time, issue instructions with regard to the general management, supervision and control of the funds established under subsections (1) and (2).

47. Council to open bank account

The Council shall open and maintain a bank account for all revenues and other monies raised or received by it under this Act or any other written law.

48. Overdrafts

The Council may, subject to the Finance and Audit Act, obtain an advance from a bank by overdraft:

Provided that the prior approval of the Council shall be obtained in any case where—

- (a) the amount of the overdraft required will exceed one sixth of the previous years' recurrent revenue of the Council; and
- (b) the overdraft is required for longer than six months.

[Cap. 37:01]

49. Power to borrow

The Council may, subject to the Finance and Audit Act, raise loans within Malawi of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the Minister, in consultation with the Minister responsible for finance, may approve.

[Cap. 37:01]

50. Investment of funds

The Council may invest any portion of its monies in Government Treasury Bills or in other investments as may be approved by the Council.

51. Annual and supplementary estimates

- (1) The Council shall, not later than ninety days before the commencement of the financial year next ensuing, prepare detailed estimates of its revenue and expenditure for such financial year, and shall submit such estimates to the Local Government Finance Committee which may either approve the estimates as submitted or disallow such estimates in whole or in part or refer such estimates back to the Council for further consideration.
- (2) The Council may in any year prepare and approve supplementary estimates of revenue and expenditure and such estimates shall be submitted for approval to the Local Government Finance Committee which may approve or disallow the estimates either wholly or in part.

52. Reallocation of approved estimates

The Council shall not, except with the approval of the Local Government Finance Committee, incur any expenditure which has not been included in the approved estimates of the Council, but may, with the approval of the Local Government Finance Committee, make reallocations of any sum contained in such approved estimates.

53. Accounts

- (1) The Council shall keep proper books of accounts and other records in relation thereto and shall balance its accounts for that year and produce statements of final accounts within six months from the end of each financial year.
- (2) The Council shall submit the final accounts to the Local Government Finance Committee which shall forward a copy to the Auditor General.

54. Audit of accounts

- (1) The accounts of the Council shall be audited by the Auditor General or an auditor appointed by him.
- (2) The Auditor General may carry out surprise audit, investigations or any other audit considered necessary.
- (3) The Auditor General shall give his report of the audited accounts to—
 - (a) the Minister;
 - (b) the Local Government Finance Committee; and
 - (c) the Council.
- (4) The Council shall have an Internal Audit Department.

55. Local Government Finance Committee may disallow or surcharge

- (1) After considering the report of the Auditor General, the Local Government Finance Committee shall have power to disallow any item of expenditure which is contrary to this Act and to surcharge —
 - (a) the amount of any expenditure disallowed on the person responsible for incurring or authorizing that expenditure;

- (b) any sum which has not been duly brought into account by the person by whom the sum ought to have been brought into account; or
 - (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.
- (2) Any person aggrieved by a disallowance or surcharge made by the Local Government Finance Committee may appeal to the Minister.
- (3) Any person aggrieved by a decision of the Minister may apply to the High Court for judicial review.
- (4) Any sum surcharged on any person shall be payable to the Council within one month of written notification of the surcharge to such person or, in the case of an appeal under subsection (2) or an application under subsection (3), within one month of the decision of the Minister or the High Court if such decision confirms the surcharge, and shall be recoverable as a debt to the Council.

56. Power of Minister to give financial instructions

The Minister may, after consultation with the Minister responsible for finance, issue written instructions, not inconsistent with the provisions of this Act, for the better control and efficient management of the finances of the Council.

57. External assistance

All external assistance to the Council shall, except assistance from a sister city, be routed through the Ministry of Finance.

58. Assistance from Non-Governmental Organizations

Any assistance to the Council from a Non-Governmental Organization shall be approved by the Minister in consultation with the Council.

59. Financial year

The financial year of the Council shall be the period beginning from the 1st day of July and ending on the 30th day of June in the following year.

60. Superannuation and retirement provisions

- (1) The Council may establish a superannuation fund for the benefit of officers on their retirement from service of the Council and the dependants of deceased officers.
- (2) The Council may establish a provident fund for the payment of gratuities to officers on their retirement from the service of the Council and to the dependants of deceased officers.
- (3) No pension, provident fund payment, gratuity or other allowance or benefit payable under this section shall be assignable or transferable or liable to be attached or levied upon, for or in respect of any debt or claim except a debt due to or a claim made by the Council.

Part VII – Valuation and rating

61. Application

- (1) This Part shall apply to areas or parts thereof which the Minister shall designate by notice published in the *Gazette* as rateable areas.

- (2) The Minister shall, before designating an area as a rateable area, be satisfied that—
- (a) the following aspects are such that they justify an area to be designated a rateable area—
 - (i) physical size of the area;
 - (ii) population size of the area;
 - (iii) economic activities;
 - (iv) available infrastructure; and
 - (v) potential to generate revenue locally;
 - (b) the Council has the capacity and ability to provide basic essential services; and
 - (c) there is rateable property in the area.
- [10 of 2017]*

62. Definitions

For the purpose of this Part—

"improvements" includes any building structure or works ancillary thereto of a permanent or semi-permanent nature and shall include any plant or machinery installed in any building structure or ancillary work for the purpose of heating, ventilation, safety, drainage, lighting, supplying water, protection from fire or movement of passengers or goods but shall exclude any machinery or plant which is installed mainly for the purpose of manufacturing operations or trade processes;

"owner" means the person, other than a mortgagor not in possession, entitled with or without the consent of any other person to dispose of an interest in the property;

"time of valuation" means the date of the passing of a resolution of the Council and shall be the date at which all valuations shall be deemed to have been made for the purpose of any valuation roll or supplementary valuation roll prepared during the continuance in force of such valuation roll;

"Valuation Tribunal" means the Tribunal appointed under [section 78A](#).

[10 of 2017]

63. Assessable property

All land within a local government area, together with all improvements of every description situated thereon shall be assessable property save the following—

- (a) all streets;
- (b) sewers and sewage disposal works;
- (c) land and improvements used directly and exclusively as a cemetery, crematorium or burial ground, but shall not include those which are privately owned;

[10 of 2017]

- (d) land and improvements used as a public open space; and
- (e) public railway lines used for transit;

[10 of 2017]

- (f) rivers, streams and buffer zones except those which are privately owned.
- [10 of 2017]*

64. Levy of fixed sums

In respect of any area which has not been designated by the Minister as a rateable area under this Act or which for any reason has not been assessed or is not assessable, the Council may levy—

- (a) a fixed sum upon the owners of buildings which sum may be different in respect of buildings used for different purposes; and
- (b) a fixed sum per unit of area of land or a fixed sum per unit of superficial area or both such fixed sums.

65. Preparation of valuation rolls

- (1) The Council shall continuously or from time to time and in any event not less than once in every five years, cause to be made and entered into a valuation roll for the local government area a valuation of all assessable property within such area.
- (2) Such valuation roll shall take effect on the date of the commencement of the next rate period following the date of such roll:

Provided that, where the interval between such dates would be less than three months, if the Council so decides within the said interval, such valuation roll shall take effect on the date of the commencement of the next but one rate period following the date of the said valuation roll.

- (3) A valuation roll shall cease to be current on the date on which a new valuation roll completed in pursuance of subsection (1) shall take effect.

66. Supplementary valuation

- (1) The Council shall either continuously in any case not less than once in twelve months cause a valuation to be made—
 - (a) of any assessable property or part thereof discovered to have been omitted from the last preceding valuation;
 - (b) of any new building or structure or any improvements or part thereof erected, made or completed since the completion of the last preceding valuation roll;
 - (c) of any assessable property which, from any cause particular to such property arising since the time of valuation has materially increased or decreased in value;
 - (d) of any assessable property, the identity of which has, since the completion of the last preceding valuation roll been changed by subdivision, consolidation or alteration of boundaries by re-survey; and
 - (e) of any assessable property brought, subsequent to the completion of the last preceding valuation roll within the local government area by reason of an alteration in the boundaries of the local government areas and such valuation shall be entered in a supplementary valuation roll.
- (2) When any property included in any existing valuation roll has been demolished from the local government area, particulars of such property shall be included in a supplementary valuation roll and the valuation ascribed therein to such property shall be nil.

[10 of 2017]

- (3) Pending the inclusion of any supplementary valuation roll of any property referred to in subsection (1) (b) the Council on issuing a certificate of substantial completion or a certificate

of occupation under any written law, or which is otherwise satisfied that the improvements are occupied or used or is capable of occupation or use, or upon any date upon which the improvements are deemed or stipulated to have been completed pursuant to any condition in any consent granted under the Town and Country Planning Act or a by-law or in terms of a condition in a building agreement, shall use the estimated value of the property for rating purposes and such rates shall become due and payable on the next date on which the general rate becomes due and payable.

[Cap. 23:01; 10 of 2017]

67. Valuer

- (1) Each valuation and preparation of valuation rolls and supplementary valuation rolls shall be undertaken by a valuer registered under the Land Economy Surveyors, Valuers, Estate Agents and Auctioneers Act.

[Cap. 53:08]

- (2) A local government authority shall pay fees and expenses incurred by a valuer in respect of his duties under this Act together with remuneration and other expenses as may be agreed upon between the local government authority and the valuer.

[10 of 2017]

68. Method of valuation

- (1) Every valuation roll and supplementary valuation roll shall in respect of every assessable property included therein show separately—

- (a) the total valuation of the assessable property;
- (b) the value of the assessable land; and
- (c) the value of the assessable improvements situated thereon, and shall also show what are, to the best of the knowledge and belief of the valuer, the name and address of the owner and the situation and area of the land and shall contain a description of the property in such a way as to provide adequate identification of the property and every supplementary valuation roll shall in addition show the valuation, if any, appearing in the valuation roll to which any entry in the supplementary valuation roll refers:

Provided that where in the opinion of the valuer the total value of any assessable property is less than a sum as may from time to time be prescribed by the Minister by notice published in the *Gazette*, the words "Minimum value" shall be inserted in the valuation roll or supplementary valuation roll as the case may be.

- (2) The total valuation of an assessable property shall represent the fair amount of income in rental which the property is likely to realize at the time of the valuation if the property were in a reasonable state of repair, having regard to the type of property and the area in which it is situated.

[10 of 2017]

- (3) The valuation of the land shall be made on the assumption that it was without improvements other than the clearing of the land of trees, undergrowth or rock or the levelling or draining of the land or works of a similar nature at the time of valuation:

Provided that account shall be taken—

- (a) of the nature of any improvement on neighbouring land;
- (b) of any public services available to the land; and

- (c) of any provisions of or derived from any law relating to town planning as it affects the land or neighbouring land.
- (4) The value of improvements shall be the difference between the total value of the assessable property and the value of the land.

[10 of 2017]

69. Supplementary valuation roll to be part of main roll

Every supplementary valuation roll shall be deemed to be part of, and to be included in, the valuation roll last compiled in accordance with [section 65](#) and where any entry relating to any assessable property appears in a valuation roll the former entry shall be deemed to have been deleted and superseded by the latter entry as from the effective date of the supplementary valuation roll:

Provided that where the entry is made in a supplementary valuation roll, the entries in relation to such property shall be deemed to be deleted from the valuation roll.

70. Alteration of valuation roll

The Council may, as often as it considers, cause a valuation roll or a supplementary valuation roll for the time being in force to be altered for any of the following purposes—

- (a) to correct any clerical error not affecting any valuation;
- (b) to correct any error as to, or to record any change in, the name or address of owner;
- (c) to correct any error in the description of any assessable property provided that there is no alteration in value; and
- (d) to correct the description of the situation of any assessable property in consequence of the naming or renaming of a street or through any other similar causes.

71. Correction of errors

The valuer may include in any supplementary roll an entry correcting any error in the valuation roll then in force and the effective date of the correction shall be that of the original entry.

72. Effective date of supplementary valuation roll

- (1) Any assessable property included in a supplementary valuation roll shall be liable to assessment upon the valuation shown therein from the date when the last proceeding valuation roll became effective.
- (2) Any improvements or part thereof included in a supplementary valuation roll shall be liable to assessment upon the new valuation shown therein from the date that a certificate of occupation or completion was issued.
- (3) Any improvements or part thereof included in a supplementary valuation roll shall be liable to assessment upon the new valuation shown therein from the date upon which the cause of the increase or decrease in value was effective.
- (4) Any assessable property included in a supplementary valuation roll shall be liable for assessment upon the valuation shown therein from the date of the Deed of Conveyance or Registration of Title which affects the change of identity.

- (5) Any assessable property included in a supplementary valuation roll shall be liable for assessment upon the valuation shown therein from the effective date of the alteration of boundaries under which the property was included in the local government area.
- (6) Any property included in a supplementary valuation roll shall cease to be liable for assessment for rating from the date of alteration of the boundaries under which the property was excluded from the local government area.

73. Powers of entry

- (1) A valuer, duly authorized for the purpose of making a valuation, shall have power to enter at all reasonable times property within the local government area without being liable to any action or other proceeding on account thereof:

Provided that admission to any dwelling house shall not be demanded as a right unless forty eight hours notice of the intended entry has been given to the occupant.

- (2) Any person who wilfully obstructs a valuer from exercising the powers conferred upon him by this section shall be liable upon conviction to a fine not exceeding K50,000 or to imprisonment for a term of six months or both such fine and imprisonment and where the offence continues, to a fine of K10,000 for each day that the offence continues.

[10 of 2017]

74. Provision of information to valuer

- (1) A valuer, may at any time serve a notice on any person in apparent occupant or charge of, or upon the owner of, any assessable property requiring such persons or owner to supply such information as may reasonably be required by the valuer to enable him correctly to value such property.
- (2) Every person upon whom a notice has been served under subsection (1) shall, within twenty-eight days after the date of such service, supply such information in such form and in such manner as is required by such notice and for the purposes of this subsection a notice served by post shall be deemed to have been served within seven days of posting unless the contrary is proved.
- (3) If any person on whom notice has been served fails, without reasonable excuse, to comply with the notice, or wilfully refuses to answer questions to the best of his knowledge and belief, or unknowingly makes or gives any false statement he shall be liable upon conviction to a fine not exceeding K5,000 both such fine and imprisonment for a term of six months or both such fine and imprisonment and, where the offence continues, to a fine of K1,000 for each day that the offence continues.

75. Deposit of valuation roll

- (1) Upon the completion of a supplementary valuation roll the valuer shall—
 - (a) deliver to the Chief Executive Officer or District Commissioner of the Council the said valuation roll signed and dated by him;
 - (b) certify therein that the said valuation roll has been completed by him in accordance with this Act; and
 - (c) specify therein the time of valuation.
- (2) As soon as possible after any valuation roll or supplementary valuation roll has been delivered to him in accordance with subsection (1) the Chief Executive or District Commissioner of the Council shall publish in the *Gazette* and at least two newspaper circulating in the local government area a

notice and may cause an announcement to be made on broadcasting service that the Council, and such valuation roll shall be so open to inspection.

[10 of 2017]

- (3) Any interested person may, without payment, at any time during which the offices of the Council are open for business, inspect such valuation roll and copy information therefrom.

[5 of 2001]

76. Objection to valuation roll

- (1) Any person who is aggrieved—
- (a) by the inclusion of any property in, or by the omission of any property from, any valuation roll; or
 - (b) by any rule ascribed in any valuation roll or supplementary valuation roll to any assessable property, or by any other entry made or omitted to be made in the same with respect to any assessable property, may object to the Council at any time before the expiration of twenty-eight days from the first day on which the rate is payable and the Council shall in turn advise the valuer of the objection.
- [10 of 2017]*
- (2) Any objection given under subsection (1) shall be in writing and shall specify the grounds of the objection.
- (3) Upon receipt of an objection under subsection (1) the valuer—
- (a) in the case of an objection to the inclusion or omission from the valuation roll of any property may if he thinks fit alter the valuation roll accordingly; and
 - (b) in the case of an objection to a valuation shall cause the property in question to be reassessed and may alter the valuation downwards or upwards or confirm the original valuation and shall set out in writing to the person objecting the reasons for such decision.

[10 of 2017]

77. Valuation rolls to be conclusive evidence

The valuation on assessable property shown in an uncontested valuation roll or supplementary valuation roll or those valuations in respect of which the decision of a valuation court has been given shall, for the purposes of this Act, be conclusive evidence of the value of properties included in such valuation roll or supplementary valuation roll of properties.

78. Payment of rate pending the hearing of an objection or an appeal

The rates levied upon a property in respect of which an objection or appeal has been lodged shall be payable according to the valuation appearing in the valuation roll or supplementary roll pending the determination of the objection or appeal.

78A. Valuation Tribunal

- (1) The Minister shall appoint a Valuation Tribunal which shall consist of—
- (a) a Resident Magistrate or a legal practitioner of not less than five years' experience, who shall be the Chairperson of the Valuation Tribunal, recommended by the Judicial Service Commission;

- (b) three valuers recommended by the Board of Registration of Land Economy Surveyors, Valuers, Estate Agents and Auctioneers; and
 - (c) a person conversant with issues of land economy.
- (2) A local government authority having jurisdiction in the area where an issue arises for the consideration of the Valuation Tribunal shall be responsible for the payment of expenses, fees and allowances for the members of the Valuation Tribunal as may be prescribed.
 - (3) A member of the Valuation Tribunal shall not, by reason only of the payment to him of a fee or allowance under this Act, be deemed to be an officer of the local government authority or to have a pecuniary interest in any contract or proposed contract or other matter of the local government authority.

[10 of 2017]

78B. Proceedings of a Valuation Tribunal

- (1) The Chief Executive Officer or other person appointed by a local government authority, shall act as clerk to the Valuation Tribunal.
- (2) At each sitting of the Valuation Tribunal, three members present shall constitute a quorum, and a decision of the Valuation Tribunal shall be arrived at by a vote of a majority of the members present and voting; and, in case of an equality of votes, the Chairperson or a member acting as a Chairperson shall have a casting vote.
- (3) A member of the Valuation Tribunal shall not sit on a hearing of a matter in which he is directly or indirectly interested or concerned as being liable to pay the rates or a part of the rates in question.
- (4) In case of a vacancy in the Valuation Tribunal or incapacity to act by a member, so that a quorum cannot be formed, the local government authority may at once, appoint a suitable person temporarily or otherwise to fill up the vacancy or the place of a member incapable of sitting.
- (5) The clerk shall publish notice of a sitting of the Valuation Tribunal not later than seven days before the fixed date of its first sitting.
- (6) The Valuation Tribunal shall determine its own procedures.
- (7) Proceedings before the Valuation Tribunal shall be deemed to be judicial proceedings as defined under section 4 of the Penal Code.

[10 of 2017]

78C. Consideration of objectives by the Valuation Tribunal

- (1) An aggrieved person who is not satisfied with the decision of the valuer under [section 76](#), may appeal against the decision of the Valuer to the Valuation Tribunal.
- (2) The Valuation Tribunal shall, at a sitting duly called by the clerk, consider the appeal made under subsection (1).
- (3) The clerk shall send a notice of the date to the persons mentioned in subsection (3) not less than seven days before the day fixed for the consideration by the Valuation Tribunal of the appeal; but the Valuation Tribunal may hear the appeal at shorter notice if all the persons entitled to be heard on the appeal consent.
- (4) On the consideration of the appeal, the local government authority, the person who lodged the appeal and a rateable owner of the property, which is the subject of the appeal, may appear and be

heard, either in person or by legal practitioner or an accredited representative, and may call and examine witnesses before the Valuation Tribunal.

- (5) After hearing the persons mentioned in subsection (3), or such of them as desire to be heard, the Valuation Tribunal shall confirm, or may amend the draft valuation roll or draft supplementary valuation roll, by way of reduction, increase, addition or omission, as it may consider appropriate.
- (6) Where the Valuation Tribunal has amended a draft valuation roll or draft supplementary valuation roll in accordance with subsection (4), the Valuation Tribunal may make further amendments to the roll, as it may consider appropriate, in consequence of the first-mentioned amendment:

Provided that—

- (a) the further amendment by way of increase or addition shall not be made unless the rateable owner concerned has been given at least fourteen days' prior notice of the proposed amendment and of the date of the sitting of the Valuation Tribunal at which such amendment will be considered; and
 - (b) the rateable owner may lodge an objection to such further amendment in writing, so as to reach the clerk not less than three days before the date of the sitting of the Valuation Tribunal at which such amendment will be considered.
- (7) The Valuation Tribunal shall consider the objections made under paragraph (b) of the proviso to subsection (5), and the provisions of subsection (3) shall apply, *mutatis mutandis*, in respect of those objections.

[10 of 2017]

79. Duty to levy rates

- (1) In every financial year a rate shall be made and levied by the Council to meet some liabilities falling to be discharged out of the general fund for which provision is not otherwise made.
- (2) Every rate shall be made and levied upon the assessments appearing in the valuation roll.
- (3) Any rate may be made and levied separately upon the valuation of land and upon the valuation of improvements and such rate may, as regards such separate valuations, differ in the amounts made and levied thereon.
- (4) Notwithstanding subsection (2), the Council may differentiate between areas and between classes of property within the local government area as regards the amount of such rate.
- (5) A minimum charge in such sum as may be prescribed by the Minister for any financial year in respect of any rateable property in respect of any rate made and levied under this section shall be levied in respect of every property to which a minimum value has been ascribed.

[10 of 2017]

80. Period of rate

Every rate shall be made in respect of a period commencing immediately after the expiration of the preceding period in respect of which a rate was made and terminating on such date as may be fixed by the Council and, in the case of the last rate to be made in any financial year, the date so fixed shall be the last day of such year.

81. Date on which rate is payable

Every rate shall become due on the first day of the rate period and shall become payable on the date in the financial year to which it relates as shall be fixed by the Council:

Provided that the Council may authorize the payment of any rate in arrears by instalments on such dates during the rate period as it may specify.

82. Notice of rate

Notice of the making of every rate shall be given by the Council not less than twenty-one days before the date on which it becomes payable in the *Gazette* and in a newspaper circulating in the local government area and in such other manner, if any, as the Council may direct and such notice shall specify the instalment dates, if any, upon which such rates may be paid, and the date of termination of the rate period in respect of which it is made.

83. Remission of rate

- (1) The Council shall remit in full the payment of rates on—
 - (a) vacant and unalienated public land;
 - (b) land and improvements used exclusively for public religious worship;
 - (c) land and improvements used directly and exclusively as a public library or public museum;
 - (d) land and improvements owned by a hospital or other institution for the treatment of the sick that is not operating on a commercial basis;
[10 of 2017]
 - (e) land and improvements owned by an educational institution that is not operating on a commercial basis; and
[10 of 2017]
 - (f) land and improvements owned by a club, society or other institution for the purposes of the sport other than improvements used primarily for activities and directly connected with sport.
- (2) This section shall not apply to any separate buildings used as residences for staff or the use of any premises or part thereof for profit or such other premises as the Minister may, by notice in the *Gazette*, specify.
[10 of 2017]

84. Exempted properties

- (1) A rate shall not be made or levied in respect of assessable property owned by a diplomatic mission as may be approved by the Minister responsible for foreign affairs.
- (2) The decision of the Minister shall be based on existing reciprocal agreement with the State of the relevant diplomatic mission.
[10 of 2017]

85. Government to pay rates

The Government shall pay to the Council fifty *per centum* of the amount of rates on its assessable property.

86. Payment of rates

- (1) Where the Council has given notice under [section 82](#) of the day on which a rate levied or instalment thereof will become payable, it shall be the duty of every person liable to pay such rate, or instalment thereof, to pay the amount of such rate or instalment thereof to the Council as per the statement issued by the Council.
- (2) The Council shall make a surcharge on any rate remaining unpaid sixty days after the date on which such rate becomes payable, such surcharge shall be payable from the date on which the rate first payable and may be recovered in the like manner.
- (3) The surcharge made under subsection (2) shall be calculated at the rate of four *per centum* per month or part thereof.

87. Liability for rates

- (1) The person who at the date the rate becomes due is the owner of any assessable property and shall be liable for the payment of the rate:

Provided that joint owners of assessable property shall be jointly and severally liable for the payment of the rate.
- (2) In the absence of any agreements to the contrary, the owner shall be entitled to recover from the former rateable owner any rate paid by or recovered from him in respect of ownership of the property by such former owner.

88. Rates records

All rates made and levied upon the value of assessable property shall be entered in a form of permanent record to be prepared and maintained by the Council and in addition to any other matters which may be entered therein, shall show in respect of each assessable property—

- (a) the plot or street number and situation or other identification;
- (b) the name and address of the owner;
- (c) the valuation shown in the valuation roll in force on the land and of improvements; and
- (d) the amount of rates made and levied.

89. Evidence of rate

In any proceedings to levy or recover rates or consequent on levying or recovering of any rates, the valuation rolls and rates records and all entries made therein and extracts or certified copies thereof signed by the Chief Executive Officer or District Commissioner of the Council and all copies of any notice required under this Part, shall upon production thereof, be evidence of the levying of such rate and the contents of such extracts, certified copies or notices.

[5 of 2001]

90. Rate to be a charge upon the property

- (1) Notwithstanding anything to be contrary contained in [section 87](#) and in every case in which a rate has been made and levied upon any property, such rate shall without registration under any law relating to the registration of charges upon land, be a charge upon such property, and the whole

amount thereof shall be recoverable from the person who was the owner of such property at the time such rate was made and levied, or from any subsequent owner of such property:

Provided that a subsequent owner shall become liable for rates due for any period prior to the date of issue of a rate certificate only for the amount stated in the certificate or the amount due whichever is less.

- (2) The Chief Executive Officer or District Commissioner of the Council shall on request by the owner and on payment of a fee to be fixed by the Council give a statement setting out in respect of any property the amount of the rates outstanding on the property at the date of issue and such statement shall be known as rates certificate.

[5 of 2001]

91. Seizure of property in default

- (1) In addition to any remedy provided under Part VI relating to recovery of debt, if any sum due for any rate levied on any assessable property remains unpaid for a period of three years after the date upon which such sum became payable the Council shall publish a notice in the *Gazette* and a newspaper circulating in the local government area showing the name and address of the owner, the description of the property, the amount of rates outstanding, requiring the owner to pay the arrears within thirty days of the date of publication of the notice.
- (2) If the arrears are not paid within the stated period in subsection (1) after notice to any mortgagee, the property shall be seized by the Council through a court of law and thereafter sold by public auction in satisfaction of the rate due.
- (3) The Council shall give notice of the sale by advertisement in the *Gazette* and a newspaper circulating within the local government area.
- (4) The owner may recover possession of the property by paying in full all arrears and expenses incurred by the Council at any time before the sale.
- (5) In the event of sale the Council shall retain out of the proceeds the amount of arrears and surcharge and the costs of sale which shall have priority over any other registered or unregistered interest in the property and shall be charged as trustee to those who may be entitled to the balance, if any, of the proceeds of the sale.
- (6) A sale of a property under the provisions of this section shall pass a good and sufficient title.
- (7) Nothing in this section shall prevent the Council from taking proceedings for recovery by ordinary action in the court.
- (8) No liability for error or irregularity shall attach to the Council or to any employee of the Council arising from the exercise by the Council of powers granted under this section.

Part VIII – General provisions relating to the Council

92. Legal proceedings

Where the Council considers it expedient for the promotion or protection of the interests of the inhabitants of the area, the Council—

- (a) may prosecute or defend or appear for the proceedings and may institute legal proceedings in its own name; and
- (b) may, in its own name, make representations in the interests of the inhabitants at any public inquiry under written law.

93. Documents and notices, etc.

The Council shall make proper arrangements with respect to keeping any documents and notices which belong to or are in the custody of the Council or any of its officers.

94. Inspection of documents

- (1) The minutes of proceedings of a meeting of the Council shall be open to the inspection of any person and any such person may make a copy of or extract from the minutes.
- (2) Any person may inspect and make a copy of or an extract from an order for the payment of money made by the Council.
- (3) The accounts or abstracts of accounts of the Council shall be open to the inspection of any member of the Council or any other person and any such member or other person may make a copy of the extract from the accounts or abstracts of accounts therefrom, and copies thereof shall be delivered to any such person on payment of a reasonable sum of each copy.
- (4) A document directed by this section to be open to inspection shall be so open upon payment of a reasonable sum during the Council's normal hours of business.
- (5) Any person having the custody of any such document who—
 - (a) obstructs any person entitled to inspect the document or to make a copy thereof or extracts therefrom in inspecting the document or making a copy or extract;
 - (b) refuses to give copies or extracts to any person entitled to obtain copies or extracts, commits an offence and shall be liable on conviction to a fine not exceeding K1,000.

95. Copies of documents

Any requirement imposed by any written law that the Council shall keep a document of any description shall be satisfied by the Council keeping a copy of the document.

96. Reports and returns

The Council shall send to the Minister such reports and returns and give him such information with respect to their functions as he may require.

97. Service of notices on the Council

Any notice, order or other document required to be given to or served on the Council shall be given or served by addressing it to the Council.

98. Public notices

A public notice to be given by the Council may be given—

- (a) by posting the notice in some conspicuous place or places within the area of the Council; and
- (b) in such other manner, if any, as appears to the Council to be desirable for giving publicity to the notice.

99. Service of notices by the Council

- (1) Subsections (2), (3) and (4) shall have effect in relation to any notice, order or other document required or authorized by or under any written law to be given to or served on any person by or on behalf of the Council or by an officer of the Council.
- (2) Any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.
- (3) Any such document may—
 - (a) in the case of a body corporate, be given to or served on the secretary of that body; and
 - (b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.
- (4) For the purposes of this section the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that—
 - (a) in case of a body corporate or their secretary, it shall be the address of the registered or principal office of that body corporate; and
 - (b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership, and for the purposes of this subsection the principal office of a company registered outside Malawi or for a partnership carrying on business outside Malawi shall be their principal office within Malawi.
- (5) For the purpose of enabling any document to be given to or served on the owner or lessee of any premises, the Council may by notice in writing require the occupier of the premises to state the name and address of the owner or lessee, and if the occupier refuses or wilfully neglects to do so, or wilfully mistakes the name and address of the owner or lessee, he shall, unless in the case of a refusal he shows cause to the satisfaction of the court of his refusal, be liable on conviction in respect of each offence to a fine not exceeding K1,000.
- (6) Where the name and address of the owner, lessee or occupier of land to or on whom any document mentioned in subsection (1) above is to be given or served cannot after reasonable inquiry be ascertained, the document may be given or served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.
- (7) The foregoing provisions of this section shall apply to a document, which is to be given or served in any proceedings in the land.

100. Authentication of documents

- (1) Any notice, order or other document which the Council is authorized or required to give, make or issue may be signed on behalf of the Council by the Chief Executive Officer or District Commissioner of the Council.
- (2) Any documents purporting to bear the signature of the Chief Executive Officer or District Commissioner of the Council shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the Council.

[5 of 2001]

101. Powers of entry

Subject to the Constitution, any person duly authorized in writing for the purpose by the Council may at all reasonable times enter any premises within the local government area for the purpose of the performance of the functions of the Council specified in such authorization:

Provided that admission to any dwelling house shall not be demanded as of right unless forty-eight hours' notice of the intended entry has been given to the occupant.

102. Obstruction of officers on duty

Any person who—

- (a) willfully obstructs any officer of the Council in the execution of his duty as such; or
- (b) being the occupier of premises, prevents the owner of such premises from complying with any lawful requirement of the Council; or
- (c) being the occupier of premises, on demand refuses or willfully mistakes the name of the owner of such premises or of the person receiving or authorized to receive the rents of such premises, shall be guilty of an offence and be liable on summary conviction to a fine of K1,000 or to imprisonment for a term of three months or to both such fine and imprisonment.

103. By-laws

The Council may make by-laws for the good rule and government of the whole or any part of the local government area or, as the case may be for the prevention and suppression of nuisances therein and for any other purpose.

104. Procedure for by-laws

- (1) The by-laws shall be made under the common seal of the Council and shall not have effect until they are approved by the Minister.
- (2) At least fourteen days before application for approval of the by-laws is made, notice of the intention to apply for approval shall be published in the *Gazette* and in one or more local newspapers circulating in the area to which the by-laws are to apply and such notice shall include representations in writing from any person wishing to make any observation upon or an objection to such proposed by-law. A copy of every such representation or objection shall be forwarded by the Council to the Minister.
- (3) For at least fourteen days before application for approval is made, a copy of the by-laws are made, and shall be deposited at the offices of the Council by whom the by-laws are made, and shall be open to public inspection without payment of any fee during the Council's normal hours of business.
- (4) The Council by whom the by-laws are made shall, on application, furnish to any person a copy of the by-laws, or of any part thereof, on payment of such sum as the Council may determine.
- (5) The Minister may approve or refuse to approve any by-laws, and may fix the date on which the by-laws are to come into operation and if no date is so fixed the by-law shall come into operation at the expiration of fourteen days from the date of its approval.
- (6) A copy of the by-laws, when approved, shall be published in the *Gazette* and shall be printed and deposited at the offices of the Council by whom the by-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, for every copy, as the Council may determine.

105. Offences against by-laws

By-laws may provide that persons contravening the by-laws shall be liable on conviction to a fine not exceeding the sum of K2,000, and in the case of a continuing offence a further fine not exceeding K200 for each day during which the offence continues after conviction thereof or to a term of imprisonment not exceeding six months or to both such fine and imprisonment.

106. Evidence of by-laws

The production of a printed copy of the by-law to be made by the Council upon which is endorsed a certificate purporting to be signed by the Chief Executive Officer or District Commissioner of the Council starting—

- (a) that the by-law was made by the Council;
- (b) that the copy is true copy of the by-law;
- (c) that on a specified date the by-law was approved by the Minister; and
- (d) the date, if any, fixed by the confirming authority for the coming into operation of the by-law, shall be *prima facie* evidence of the facts stated in the certificate, and without proof of the handwriting or official position of any person purporting to sign the certificate.

[5 of 2001]

107. Computation of time

Where the day or the last day on which any thing is required or permitted to be done by or virtue of any provision to which this section applies is a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, Martyrs' Day or a public holiday or a day appointed for public mourning the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days specified in this section.

Part IX – Miscellaneous provisions**108. Status**

- (1) If, on a petition presented to the President by the Council praying for the grant of another status he may by the charter confer on that municipality the status, dignity and title of a city and thereupon the Council of the municipality shall bear the name of the Council of the city.
- (2) A petition for a charter under subsection (1) shall not be presented except on a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the Council specially convened for that purpose.

109. Honorary appointments

- (1) The Council may confer such status, freedom, award or honour as the Council considers appropriate on any person, not being a member of the Council, who, or on any organization which, renders or has rendered eminent service to the Council or its local government area.
- (2) A receipt of the status, freedom, award or honour shall have the right to attend and take part in any civil ceremony or event of the Council but shall not have a right to attend meetings of the Council or any committee of the Council or to receive any allowance or other remuneration.

- (3) The Council shall not confer any status, freedom, award or honour under this section except by resolution of the Council passed by two-thirds of the members of the Council voting thereon at the meeting of the Council convened specially for that purpose.
- (4) The Chief Executive Officer or District Commissioner of the Council shall keep a register of every receipt of the status, freedom, award or honour conferred under this section.
- (5) The Council may spend from its revenue such reasonable sums as it considers fit to meet the cost of conferring any status, freedom, award or honour under this section.

[5 of 2001]

110. Inquiries

- (1) Where the Minister is authorized to hold an inquiry under this Act relating to the functions of the Council, he may cause a local inquiry to be held.
- (2) For the purpose of any such local inquiry, the person appointed to hold the inquiry may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation:
Provided that—
 - (a) no person shall be required, in obedience to such summons, to attend to give evidence or to produce any such documents, unless the necessary expenses of his attendance are paid or tendered to him; and
 - (b) nothing in this section shall empower the person holding the inquiry to require the production of the title or any instrument relating to the title of any land not being the property of the Council.
- (3) Every person who refuses or deliberately fails to attend in obedience to summons issued under this section, or to give evidence to summons issued under this section, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purpose of this section, shall be liable on conviction to a fine not exceeding K2,000 or to imprisonment for a term of three months or to both such fine and imprisonment.
- (4) Where the Minister caused an inquiry to be held under this section, the costs incurred by him in relation to the inquiry including such reasonable sum as he may determine for the services of any officer engaged in the inquiry shall be defrayed under [section 113](#) of this Act.
- (5) The Minister causing an inquiry to be held under this section may make orders as to the costs of the parties at the inquiry.

111. Transfer of staff

- (1) The Minister may by order make provision for the transfer to the employment of a successor Council of any person who is the holder of any office or employment under the Council amalgamated with another Council for the protection of the interests of such persons.
- (2) Any such order shall include such provision with respect to any person who is transferred under the order to a successor Council so as to secure that so long as he continues in the employment of the successor Council he enjoys terms and conditions not less favourable than those which he enjoyed immediately before the date of transfer.

- (3) For the purpose of this section service with a successor Council shall be deemed to run from the date on which the officer was first employed by the Council and broken service shall be aggregated.

112. Penalties

Where no other penalty is specified for an offence under this Act the penalty shall be a fine not exceeding K2,000 and in the case of a continuing offence a further fine not exceeding K200 for each day that the offence continues after conviction or a term of imprisonment not exceeding two years or to both such fine and imprisonment.

113. Expenses

There shall be defrayed out of monies provided by Parliament—

- (a) any expenses incurred by the Minister with respect to provision of this Act;
- (b) any increase attributable to the provisions of this Act in the sum payable out of moneys so provided under any other written law.

114. Repeal and savings

- (1) The following Acts are repealed—
 - (a) the Local Government (Urban Areas) Act; and
[Cap. 22:01]
 - (b) the Local Government (District Councils) Act.
[Cap. 22:02]
- (2) Any subsidiary legislation made under the Acts repealed by subsection (1), in force immediately before the commencement of this Act—
 - (a) shall remain in force unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and
 - (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.
- (3) Any agreement or similar arrangement made pursuant to the provisions of the Acts repealed by subsection (1) shall continue in force until terminated in accordance with the terms and conditions thereof.

First Schedule
Local government areas (section 4)

Local government area	Council
Blantyre City	Blantyre City Council
Lilongwe City	Lilongwe City Assembly
Mzuzu City	Mzuzu City Council
Zomba City	Zomba City Council
Kasungu Municipality	Kasungu Municipality Council
Luchenza Municipality	Luchenza Municipality Council
Balaka District	Balaka District Council
Blantyre District	Blantyre District Council
Chikhwawa District	Chikhwawa District Council
Chiradzulu District	Chiradzulu District Council
Chitipa District	Chitipa District Council
Dedza District	Dedza District Council
Dowa District	Dowa District Council
Karonga District	Karonga District Council
Kasungu District	Kasungu District Council
Likoma District	Likoma District Council
Lilongwe District	Lilongwe District Council
Machinga District	Machinga District Council
Mangochi District	Mangochi District Council
Mchinji District	Mchinji District Council
Mulanje District	Mulanje District Council
Mwanza District	Mwanza District Council
M'mbelwa District	M'mbelwa District Council

Neno District	Neno District Council
Nkhata Bay District	Nkhata Bay District Council
Nkhotakota District	Nkhotakota District Council
Nsanje District	Nsanje District Council
Ntcheu District	Ntcheu District Council
Ntchisi District	Ntchisi District Council
Phalombe District	Phalombe District Council
Rumphi District	Rumphi District Council
Salima District	Salima District Council
Thyolo District	Thyolo District Council
Zomba District	Zomba District Council

[17 of 2010; G.N. 59/2000]

Second Schedule

Additional functions of the Council

1. Clinical health services

A Council may—

- (a) provide, maintain, equip and manage either alone or jointly with another Council or body, clinics including maternity clinics, health centres, and dispensaries and may enter into scheme for the management of such facilities by the Ministry of Health or some other body upon such terms as to funding and otherwise as may be agreed between the parties; and
- (b) employ such medical professional and ancillary staff as may be required.

2. Environmental protection

(1) A Council may—

- (a) establish, maintain and manage services for the collection and removal and treatment of solid and liquid waste, and the disposal thereof whether within or without its area and may compel the use of its services by any body of persons to whom the services are available;
- (b) compel and regulate the provision, construction, use, maintenance and repair of drains, latrines and receptacles for solid and liquid waste and the connexion of any premises with any public sewer or drain;
- (c) require the use of any sanitary service under its control and regulate the methods of dealing with night soil or solid or liquid waste of any description whatsoever:

Provided that nothing in this paragraph shall require a Council to accept for disposal any solid or liquid waste which in the opinion of the Council are hazardous or are likely to be deleterious to the operations of any sewage treatment, plant or land fill site or which may contaminate any ground water.

- (2) A Council may take necessary steps for the destruction and suppression of vermin or pests and for the fumigation and disinfestation of any premises or place.
- (3) A Council may prohibit or control any noxious or offensive trade within the meaning of the Public Health Act and the use of premises which may be a source of nuisance, danger, discomfort or annoyance to the neighborhood.

[Cap. 34:01]

- (4) A Council may seize and destroy any vicious, dangerous or apparently ownerless dog or a dog not vaccinated against rabies in accordance with the Control and Diseases of Animals Act.

[Cap. 66:02]

- (5) Subject to the provisions of the Public Health Act a Council—
 - (a) shall have power to inspect premises where articles of food or drink are manufactured or prepared for use or are sold whether for consumption on or off the premises or where meat, meat products, milk, milk products, fish and fish products are stored or processed and may control and license slaughter houses and the killing of livestock;
 - (b) may establish, maintain and manage abattoirs and cold storage facilities and premises for the processing of milk and milk products, meat and meat products and fish and fish products;
 - (c) may establish, maintain and manage public latrines, toilets, bathhouses, washing facilities and washhouses.

[Cap. 34:01]

- (6) Subject to the provisions of any other written law, a Council shall be responsible for the draining, cleansing and sanitation of its area and the prohibition and control of pollution of any water in any river or stream and for this purpose may prohibit or regulate the use of any of such river or stream and any riverbank or streambank including any cultivation therein or the extraction of any sand, gravel or other material therefrom.
- (7) Subject to the provisions of the Public Health Act, a Council may seize and destroy without compensation any article of food or drink which is or may be intended for human consumption; and shall keep a register of all articles so seized which register shall be open to public inspection during the normal hours of business of the Council.

[Cap. 34:01]

- (8) Subject to the provisions of the Public Health Act, a Council shall take steps for the control and suppression and the prevention of the introduction of infectious diseases including the provision of isolation facilities.

[Cap. 34:01]

- (9) Subject to the provisions of any other written law, a Council may make provision for the supply of potable water by way of stand pipes, boreholes or other means and may, if it thinks fit, make reasonable charges to consumers and agree terms with any water undertaking or authority for the supply of water to any outlet or facility provided by the Council.

3. Burial of the dead

Subject to the provisions of section 28 of the Public Health Act, a Council—

- (a) may establish, maintain and manage cemeteries and crematoria and mortuaries and provide funeral facilities;
- (b) shall prohibit the disposal of human bodies otherwise than by interment in any cemetery or cremation at any crematorium established or permitted under the Public Health Act; and

[Cap. 34:01]

- (c) shall control the conveyance and disposal of any dead body within its area.

[Cap. 34:01]

4. Control of nuisances

Subject to the provisions of the Public Health Act, a Council shall—

- (a) secure the prevention and abatement of nuisances;
- (b) prohibit or control the keeping of any livestock or fowl or other animals, birds or insects so that their keeping shall not be a public nuisance or injurious to health or to the environment;
- (c) control or prohibit, singing, dancing, the playing of musical instruments, fetes, exhibitions, public amusements or entertainments circuses and games and the making of any noise whatsoever likely to disturb any person; and
- (d) require owners or occupiers to keep their premises free from offensive or unwholesome matter.

[Cap. 34:01]

5. Roads and streets

- (1) Without prejudice to the provisions of the Public Roads Act, the Roads Authority Act and the Urban Areas (Public and Private Streets) Act, a Council may—

- (a) enter into agency arrangements for the construction, maintenance and repair of any road or street within the area under the jurisdiction of the Controller of Roads upon such terms as may be agreed between the parties;
- (b) establish, maintain and manage lighting in any street, public place or area;
- (c) lay out and adorn any street, square or open space the property of the Council, or of any other public body subject to agreement between the parties as to the cost thereof, and may maintain statues and other structures erected by the Council or vested in the Council by any person or body under any architectural scheme required by the Council;
- (d) provide and maintain bus shelters, vehicle parking places, including places specifically set aside and maintained for the parking of heavy vehicles and street furniture and may levy charges on any parking place by simple resolution as the Council shall think fit.

- (2) Subject to the provisions of any other written law, a Council shall have power to construct, level, pave, drain, alter, repair or clean any street, road, highway or footpath and to name any street.

- (3) Subject to the provisions of any other written law, a Council may—

- (a) institute measures for the control of traffic and may close or divert any road or street, prohibit or restrict the use of any road or street either generally or with respect to any particular type or category of vehicle;

- (b) restrict or prohibit the parking of vehicles or any type or category of vehicle.
[Cap. 69:02; Cap. 66:07; Cap. 23:02]

6. Hazardous materials

Subject to the provisions of the Liquid Fuels and Gas (Production and Supply) Act and the Explosives Act, a Council may control and licence manufacture, storage, carriage and use of petroleum products, explosives, fireworks and other combustible or hazardous materials.

[Cap. 50:03; Cap. 14:09]

7. Emergency services

- (1) A Council may establish, maintain and manage ambulance and fire services including fire prevention services and may operate such services jointly with one or more Councils or public bodies, enter into reciprocal arrangements with other emergency services, authorities or operators, and provide, upon such terms as may be agreed between the parties, emergency services to another Council or public body.
- (2) A Council shall take all reasonable measures for ensuring the provision of an adequate supply of water for fire fighting purposes and securing that it shall be available in case of fire and may enter into an agreement with a water undertaker therefor which the water undertaker shall not unreasonably refuse.
- (3) A Council shall have power to secure for use in case of fire any water supply under the control of any person or body, to secure proper access to any such water and to lay and maintain pipes and carry out such other works as the Council may deem necessary.
- (4) The Council's fire service shall have power to enter upon any premises and to use any water supply thereon to extinguish fire on adjacent premises or to prevent the spread of fire and shall pay reasonable compensation for the use of such water supply.

8. Public amenities

- (1) For the promotion of recreation, leisure and culture and the provision of amenities in its area, a Council may either itself or jointly with any other body establish, maintain and manage—
 - (a) parks, gardens, recreation grounds, open spaces, horticultural nurseries, botanical gardens, forests, woodlands, nature reserves and areas or places of special historical, cultural or scientific interests;
 - (b) sports fields and facilities, apparatus and equipment for games, sports and other recreation together with building structures, apparatus, refreshment, toilet and other facilities either itself or in association with any person, club, association or other body.
 - (c) swimming baths, bathing establishments and camping grounds;
 - (d) amenity areas, including the planting of flowers, plants, shrubs and trees in any street or road reserve or public open space or any private open space by agreement with the owner thereof;
 - (e) theatres, concert halls, art galleries, museums, public libraries and facilities generally to preserve, promote and develop the cultural life of Malawi.
- (2) A Council may—

- (a) set aside any part of any public park, recreation ground, sports field or other facility for the purpose of any particular sport, game or recreation and may exclude the public therefrom; and
- (b) reserve any part of any public park, recreation ground, sports field or other facility for any particular event and may permit any club, body, promoter or person exclusive use for that event upon payment of such fee as the Council may determine.

9. Buildings and structures

Subject to the provisions of the Public Health Act, the Town and Country Planning Act and any development plan or scheme made thereunder, a Council shall have power to—

- (a) regulate the design, construction, alignment, elevation or siting of any new building or the alteration, refurbishment or improvement of any existing building, including the provision of access for disabled persons;
- (b) require the demolition or rendering safe of any building or structure or part thereof which is dangerous or unfit for human habitation or occupation for structural, sanitary or other reason or otherwise constitutes a nuisance;
- (c) regulate the amount of space to be allowed in and about buildings for securing proper ventilation and the free circulation of air;
- (d) require the closing of any building or part thereof which by reason of its sanitary or other considerations is unfit for human habitation or occupation and impose conditions for the reopening thereof;
- (e) require the clearing of any obstruction in any sanitary lane and demolish or require the demolition at the expense of the owner of any building or structure erected therein.

[Cap. 34:01; Cap. 23:01]

10. Control and licensing of business and trades

- (1) Subject to the provisions of any other written law, a Council shall be the licensing authority with respect to the following—
 - (a) premises licensed for the consumption of alcohol whether on trades or off the premises;
 - (b) business premises and shops for trade in any commodity, whether by retail or wholesale;
 - (c) itinerant traders;
 - (d) creches and nursery schools;
 - (e) barbers, hairdressers and beauticians;
 - (f) lodging and boarding houses and hotels and motels;
 - (g) private hospitals, nursing homes and maternity clinics, and shall have power to inspect, control, regulate and licence any premises used in connexion therewith.
- (2) Subject to the provisions of the Censorship and Control of Entertainments Act, a Council shall have power to licence, control, inspect and regulate premises or places used for entertainment, recreation or public resort.

[Cap. 21:01]

- (3) Subject to the provisions of paragraph (1)(c), a Council may prohibit or control the sale of any wares on any street or any public place for the purpose of carrying out any trade, business or profession.

11. Markets and retail facilities

- (1) A Council may establish, maintain and manage markets and market buildings and premises within its area and shall levy upon traders within a market such fees or charges as the Council may decide.
- (2) No person may establish or operate any market within a local government area:

Provided that a Council may grant a licence for the operation of a private market at such a fee and upon such terms and conditions as the Council shall determine or may refuse such licence:

Provided further that where the Council refuses to grant the licence, it shall give reasons in writing for the refusal.
- (3) Any person aggrieved by the decision of a Council made pursuant to subparagraph (2) may appeal to the Minister.
- (4) Where the Minister dismisses an appeal made under subparagraph (3), the appellant may apply to the High Court for judicial review.
- (5) A Council may establish, maintain and manage agencies for the provision of postal services upon such terms as may be agreed with any postal authority or organization.

12. Trading undertakings

- (1) A Council may establish, maintain and manage any ferry service, rest-house, hotel, motel, inn, restaurant, canteen, eating house, bar, agricultural store or farm:

Provided that no new undertaking shall be commenced until the Council shall have received a report from the Chief Executive Officer of the Council upon the financial viability and the business plan for the proposed enterprise.
- (2) The accounts of every trading undertaking shall be kept separately and shall comprise a trading and profit and loss accounts or kept in such other form as the Council may direct.
- (3) Where in any two successive years any trading undertaking has failed to return such reasonable net profit as the Minister may prescribe, the Minister may direct that the Council shall—
 - (a) contract out by competitive tender the management of such undertaking or;
 - (b) dispose of its interest upon such terms and conditions as may be recommended by the Council.

13. Fees and charges

- (1) A Council shall be empowered to levy any charge it may think fit for the provision of any service notwithstanding that the costs of such service shall ordinarily be a charge upon the general fund.
- (2) A Council shall—
 - (a) levy such fees as it shall think fit with respect to any business trading or other licence for which it is entitled to levy a fee or for any occupation of a site in any market owned and managed by it but shall not be entitled to waive or reduce any fee in any individual case;

- (b) review all its fees and charges by 31 December in any year and at any other time it deems appropriate and any revised fees and charges shall come into effect at any time the Council so decides but not later than 1 July the succeeding year.
- (3) A Council may enter into an agreement for the collection of any charge or fee by another Council or by any body or person upon such terms as may be agreed between the parties with respect to the commission payable and other conditions.
- (4) In determining charges to be levied for the collection or treatment of liquid wastes a Council may calculate such charges upon the quantities collected or treated, the rateable value of the premises or the quantity of water supplied to the premises as metered by the water undertaker or upon such other basis as the Council deems fair and equitable.

14. Power to grant money

A Council may make grants of money—

- (a) towards the establishment and maintenance of clinics, hospitals, dispensaries, maternity, nursing and auxiliary health services within its area managed by another body or other person not for profit;
- (b) to institutions and organizations established within its area for specific charitable, educational and welfare purposes where such purposes are available to and for the benefit of the general public in Malawi;
- (c) to any committee, association or organization established for the carrying out of any function which the Council is empowered to carry out:

Provided that any application for a grant of money under this paragraph shall be accompanied by the audited accounts of the applicant and that the Council shall have considered a report thereon by the Chief Executive Officer of the Council prior to any grant of money being made.

15. Tourism and conference

- (1) A Council may either alone or jointly with any other person or body—
 - (a) promote tourism and otherwise encourage persons, by advertisement or otherwise, to visit their area for recreation and for health purposes, and hold conferences, trade fairs and exhibitions in the area; and
 - (b) provide or encourage any other person or body to provide facilities for tourism, conferences, trade fairs and exhibitions or improve or encourage any other person or body to improve, any existing facilities for those purposes.
- (2) Without prejudice to subsection (1), a Council may contribute to any organization established for the purpose of encouraging persons to visit Malawi.

16. Civic offices, halls and public buildings

A Council may erect, acquire, or provide and furnish—

- (a) offices and other buildings for the carrying out of any of the functions of the Council; and
- (b) public halls, shelters and other structures for use as places for public assembly and public meetings.

17. Civic regalia, etc.

A Council may acquire, provide, adopt, use and maintain civic regalia, insignia, emblems, apparel and appurtenances appropriate to the status and dignity of the Council.

18. Housing

- (1) Subject to the directions of the Minister generally or in relation to any Council or class of Councils or in any particular case a Council shall have power to acquire land, lay out estates, provide or arrange for the provision of all necessary services thereto and to design, construct and manage housing or provide building land for the benefit of—

(a) residents of the local government area at such rentals and upon such other terms as the Council shall decide;

(b) full-time permanent employees of the Council:

Provided that every lease or other permission to occupy any land or housing shall stipulate that such land or building shall be occupied by the owner except with the prior written consent of the Council upon such terms and conditions as the Council shall think fit and that any breach thereof shall entitle the Council to forfeit the lease or other permission without liability to pay compensation:

Provided further that nothing in this subparagraph shall prevent the owner from disposing of his interest in the property subject to the same stipulations.

- (2) For the purposes of this paragraph, a Council may lease housing from another Council or body or person upon such terms as may be agreed.

19. Miscellaneous

- (1) A Council shall have power to—

(a) compel the fencing or enclosing of plots and restrict or prohibit the use of barbed or razor wire, broken glass or any similar hazardous material on fences and walls;

(b) require the owner or occupier of any premises to remove, lower or trim any tree, shrub or hedge overhanging any road or street or interfering with or obstructing free passage of any wires, cables or works, or to remove any dilapidated or dangerous fence, wall or structure abutting upon any public place; and

(c) prohibit any obstruction in any public place and provide for the removal of any obstruction at the owner's expense.

- (2) Subject to the provisions of the Town and Country Planning Act, a Council shall have power to prohibit or control—

(a) the display of advertisements and advertising devices in or in the view of any street or public place which, in the opinion of the Council, would be likely to affect injuriously the amenities of or disfigure any neighbourhood or cause offence to the community or any section of it;

(b) the use of moveable advertising devices, flags, banners, lights or screens; and

(c) the playing of music or the use of any loudspeaker or amplifier for advertising purposes in any street or public place or from a shop or premises adjoining or abutting onto any street or public place.

[Cap. 23:01]

- (3) A Council may prohibit or control the cultivation by unauthorized person of any public land and land reserved for any public road and of unenclosed or unoccupied land in private ownership.
- (4) "Public place" means any place to which the public has access whether or not the land is in private ownership.

20. Management of the Council's estates

- (1) A Council shall prepare a plan for the management of land and buildings and other real property assets owned by or in the possession or under the control of the Council, which in addition to any other information which the Minister may require under subclause (2) shall contain—
 - (a) a description of the property by reference to its plot number or location;
 - (b) the current use or uses;
 - (c) the planning designation under any District Physical Development Plan prepared or under preparation pursuant to the Town and Country Planning Act;
[Cap. 23:01]
 - (d) the value of the assets according to the entry in the Valuation Roll or Supplementary Valuation Roll if any or the Council's Register of Fixed Assets whichever is the higher;
 - (e) if the property is occupied by a lessee or tenant, the name and address of the lessee or tenant, the date of commencement and expiry of the term, the amount of rent payable, the dates for review of the rent, and whether the rent is a rack rent or a ground rent;
 - (f) if the property is leased or rented by the Council, the name and address of the lessor or landlord and otherwise the same information as is required by subparagraph (e);
 - (g) the future intentions of the Council with respect to the property and, if the land is held by the Council for development purposes, the nature of the development and the planned date of commencement; and
 - (h) a description of the Council's general strategy for the management of its estates.
- (2) The Council may prescribe the form of the Estates Management Plan which shall contain such information or explanations as it may think proper and may determine that the Plan shall be submitted to the Minister for his approval annually or at such other intervals as he may determine.
- (3) A certificate of value issued by a registered valuer shall be *prima facie* evidence of the market value in any disposal of any interest in land including a short tenancy.

21. Development plans

- (1) A Council shall have a duty to draw up plans for the social, economic and environmental development of the area for such periods and in such form as the Minister may prescribe.
- (2) Development plans shall be prepared in conjunction and consultation with other agencies having a public responsibility for or charged with producing plans for development whether generally or specifically and affecting the whole or a substantial part of the Council.

22. Other functions

The Council shall perform the following functions—

- (a) education services, which cover nursery, primary and distance education;

- (b) medical and health services including—
 - (i) hospitals, other than hospitals providing referral and medical training;
 - (ii) health centres, dispensaries, sub-dispensaries and first-aid posts;
 - (iii) maternity and child welfare services;
 - (iv) the control of communicable diseases, including HIV/AIDS, leprosy and tuberculosis;
 - (v) control of the spread of disease in the local government area;
 - (vi) ambulance services;
 - (vii) primary health care services;
 - (viii) vector control;
 - (ix) environment sanitation; and
 - (x) health education;
- (c) the provision and maintenance of water supplies in liaison with the Ministry of Water Development, where applicable;
- (d) subject to the Roads Authority Act, the construction, rehabilitation and maintenance of roads;
[Cap. 69:07]
- (e) taking charge of all decentralized services and activities which include but are not limited to—
 - (i) crop, animal and fisheries husbandry extension services;
 - (ii) entomological services and vermin control;
 - (iii) human resources management and development;
 - (iv) recurrent and development budget;
 - (v) district statistics services;
 - (vi) district project identification;
 - (vii) district planning;
 - (viii) local government development planning;
 - (ix) land administration;
 - (x) land surveying;
 - (xi) physical planning;
 - (xii) forests and wetlands;
 - (xiii) licensing of produce buying;
 - (xiv) trade licences;
 - (xv) trade development services;
 - (xvi) commercial inspectorate;
 - (xvii) community police;

- (xviii) industrial relations;
- (xix) social rehabilitation;
- (xx) labour matters;
- (xxi) probation and welfare;
- (xxii) street children and orphans;
- (xxiii) women in development;
- (xxiv) community development;
- (xxv) youth affairs;
- (xxvi) cultural affairs;
- (xxvii) district information services;
- (f) regulate, control, manage, administer; promote and licence any of the things or services which the Council is empowered or required to do, and establish, maintain, carry on, control, manage or administer and prescribe the forms in connexion therewith to fix fees or charges to be levied in that respect;
- (g) aid and support the establishment and maintenance of schools, hospitals, libraries, art galleries, museums, tourist centres, homes for the aged, destitute or infirm or for the orphans, and to provide bursaries to assist in the education of children of persons residing in the local government area, to make donations to charitable and philanthropic, welfare, youth, persons with disabilities, women and sports organizations;
- (h) preserve public decency, and to prevent offences against public order in public places and to prevent damage to property of the Central Government and the Council;
- (i) undertake private works and services and to charge, recover the costs and contract out public services to the private sector;
- (j) sell all by-products resulting from carrying on by, or on behalf of the Council, of any works or services;
- (k) promote publicity for the Council;
- (l) promote schemes of health, education and road safety sensitization;
- (m) provide and manage—
 - (i) sporting and recreational facilities and programmes of informal education for both adults and young people including the running or provision of community centres;
 - (ii) the development of social work among adults;
 - (iii) remedial social welfare programmes aimed at the alleviation of social distress;
 - (iv) the welfare of children and the elderly; and
 - (v) public vehicular parking;
- (n) the registration of marriages, births and deaths for transmission to the Registrar General;
- (o) assist Government to preserve the environment through protection of forests, wetlands, lake shores, streams and prevention of environmental degradation;

- (p) upon delegation by Government, identification and preservation of sites and objects or buildings of historical and architectural value; and
- (q) any other service or function which the Government may delegate to the Council.

Third Schedule

Sources of revenue for the Council

1. Locally generated revenue which shall include but shall not be limited to—
 - (a) Property rates;
 - (b) Ground rent;
 - (c) Fees and licences;
 - (d) Commercial undertakings; and
 - (e) Service charges.
2. Government grants.
3. Ceded revenue.