

# **EXCHANGE CONTROL ACT**

## **PART I - PRELIMINARY**

**1.** These Regulations may be cited as the Exchange Control Regulations.

**2.(1)** In these Regulations- Interpretation "authorized dealer", in relation to any particular regulation, means a person appointed pursuant to regulation 4 for the purpose of that particular regulation ;

"the Bank" means the Reserve Bank of Malawi established under section 3 of the Reserve Bank of Malawi Act.

**(2)** For the purposes of these Regulations, a personal representative of a deceased person shall, unless the Minister otherwise directs, be treated as resident where the deceased person was resident at the time of his death so far as relates to any matter in which the personal representative is concerned solely in that capacity

**3** Notwithstanding any rule to the contrary, the Minister may give directions declaring that for all or any of the purposes of these Regulations a person is to be treated as resident or not resident in Malawi or any other territory, and the person shall be treated for the purposes of these Regulations as being so resident or, as the case may be, not so resident.

**4** The Minister may give

- (a) general directions indicating the considerations to which authorized dealers or the Bank should have particular regard in carrying out functions under these Regulations; or
- (b) specific directions to an authorized dealer or the Bank with respect to the carrying out of any of those functions, and an authorized dealer and the Bank shall comply with any such direction so given.

**5**

**(1)** The Minister may, by Order published in the Gazette, exempt from the operation of any regulation any act or transaction, or any class of acts or transactions, either unconditionally or subject to such conditions as are specified in the Order.

**(2)** The Minister may, by Order published in the Gazette, vary or revoke any Order made under sub regulation (1).

**6**

**(1)** The Minister may, by notice in writing to any person, require that person to furnish within the period specified in the notice such information as the Minister requires

with respect to any act, transaction, matter or thing to which any provision of these Regulations applies, and to produce books, documents or other records, relating to it, in his custody or under his control.

## **PART II - BULLION**

**7**

(1) In this regulation, "wrought gold" means gold and gold alloys which, on sight, appear to have been worked or manufactured for professional or trade purposes.

(2) This Part does not apply to wrought gold unless it is worked or manufactured in contravention of these Regulations,

**8**

(1) Subject to sub regulation (2), a person who takes or sends, or attempts to take or send, bullion out of Malawi is guilty of an offence and liable to a fine of K25,000 and to imprisonment for or Malawi three years,

(2) The Minister may give permission to a person to take or send bullion out of Malawi and, if he does so, sub regulation (1) does not apply in relation to a thing done or transaction entered into in accordance with the permission,

**9 (1) Subject to sub regulation**

(2), a person, other than the Bank or an authorized dealer-

(a) who buys or otherwise obtains bullion from any person; etc, or

(b) resident in Malawi who outside Malawi buys or otherwise obtains bullion from any person, is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years,

(2) A person may buy bullion for the purpose of its being worked or used by him in connection with his profession or trade if the bullion is purchased from-

(a) the Bank ;

(b) an authorized dealer; or

(c) a person resident outside Malawi, with the consent of the Minister .

(3) A person who, in Malawi, works or uses in manufacture any bullion, not being bullion lawfully in his possession for the purposes of being worked or used by him in connection with his profession or trade, is guilty of an offence and liable to a fine of K10,000 and to imprisonment for two years,

## **PART III - MONETARY CONTROL**

**10**

(1) Subject to sub regulation (3), a person, other than the Bank, who except with the permission of the Minister, in Malawi -

(a) buys or borrows any foreign currency from a person other than the Bank ;

(b) sells or lends foreign currency to a person other than the Bank; or

(c) exchanges any foreign currency with a person other than the Bank, is guilty of an offence and liable to a fine of K10,000 and to imprisonment for two years.

(2) Subject to sub regulation (3), a person, other than the Bank, who except with the permission of the Minister is a party to a transaction having the effect of a transaction prohibited by sub regulation (1) is guilty of an offence and liable to a fine of K10,000 and to Imprisonment for two years.

(3) The Minister may give permission to an authorized dealer to do anything in relation to or be a party to any transaction referred to in sub regulation (1) or (2), and if permission is so given then, in relation to the thing done or transaction entered into in accordance with the permission, sub regulation (1) or, as the case may be, sub regulation (2) does not apply.

(4) Where foreign currency is made available to any person by the Bank or by an authorized dealer for use for a specified purpose or subject to any condition. then if that person-

(a) uses the foreign currency otherwise than for that purpose ; or

(b) as the case may be, fails or refuses to comply with those conditions, he is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

**11**(1) Subject to sub regulations (2), (3) and (4), a person, other than the Bank" who takes or sends, or attempts to take or send any foreign currency out of Malawi is guilty of an offence of Malawi and liable to a fine of K25,000 and to imprisonment for three years.

(2) Where, pursuant to regulation 11, foreign exchange is made available to any person, subregulation 11 ( 1) does not apply in relation to the taking or sending, or the attempted taking or sending, out of Malawi of that currency, but without prejudice to the operation of regulation 11 (4).

(3) Sub regulation (1) does not apply in relation to a person-

(a) who is not resident in Malawi; and

(b) who takes or sends, or attempts to take or send, out of Malawi an amount of foreign exchange which is not in excess of the amount of foreign currency brought or sent by him into Malawi.

(4) The Minister or the Bank may give to any person permission to take or send foreign currency out of Malawi, and if permission is SO given then, in relation to foreign currency taken or sent out of Malawi in accordance with the permission, sub regulation (1) does not apply.

(1) Subject to sub regulation (2), a person, other than the Bank, who takes or send, or attempts to take or send, any Malawi currency out of Malawi is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years.

(2) The Minister or the Bank may give to any person permission to take or send Malawi currency out of Malawi, and if permission is so given then, in relation to Malawi currency taken or sent out of Malawi in accordance with the permission, sub regulation (1) does not apply.

#### **PART IV - CONTROL OF CERTAIN PAYMENTS, ETC.**

**13** Nothing in regulation 15, 16 or 17 prevents the making of any payment associated with an act permitted or authorized under regulation 11, 12 or 13.

#### **14**

(1) Subject to sub regulation (2), a person who, except with the permission of the Minister or the Bank, in Malawi.

(a) makes any payment to or for the credit of a non-resident of Malawi ;

(b) makes any payment to or for the credit of a resident of Malawi by order or on behalf of a non-resident of Malawi; or

(c) places any sum to the credit of a non-resident of Malawi, is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

(2) Where a non-resident of Malawi has paid a sum in or towards the satisfaction of a debt due from him, sub regulation (1) (c) does not prohibit the acknowledgement or recording of the payment

**15** A person who, being a resident of Malawi, without the Control of the Minister or the Bank, makes outside Malawi any payment to or for the credit of a non-resident of Malawi is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

**16** A person who-

(a) in Malawi, or

(b) being a resident of Malawi, outside Malawi, without the permission of the Minister or the Bank, makes any payment to or for the credit of a non-resident of Malawi as consideration for or in association with-

(c) the receipt by any person of a payment made outside Malawi;

(d) the acquisition by any person of property, which is outside Malawi;

(e) the transfer to any person, or the creation in favour of any person of a right (whether present or future and whether vested or contingent) to receive a payment outside Malawi; or

(f) the transfer to any person, or the creation in favour of any person, of a right (whether present or future and whether vested or contingent) to acquire property which is outside Malawi, is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

17 Without prejudice to regulation 25, a person who, being a resident of Malawi, without the permission of the Minister, lends Malawi currency to a non-resident of Malawi is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

## **PART V - SECURITIES AND FOREIGN SECURITIES CONTROL**

### **18.-**

(1) A person who, without the permission of the Minister, in Malawi-

(a) allots, issues, transmits or transfers any securities to a non-resident of Malawi; or  
(b) makes an entry in a register that recognizes or gives effect to the allotment, issue, transmission or transfer of any securities to a non-resident of Malawi, is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years.

(2) In sub regulation (1), "transfer" includes transfer by way of loan or security.

### **19.-**

(1) A person who, without the permission of the securities Minister-

(a) takes or sends, or attempts to take or send, any securities out of Malawi ;  
(b) transmits or transfers any securities from a register in Malawi to a register outside Malawi; or  
(c) makes an entry in a register that recognizes or gives effects to the transmission or transfer of securities from a register in Malawi to a register outside Malawi, is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years.

### **20.-**

(1) Subject to sub regulation (2), a person other than the Bank or an authorized dealer who, without the permission of the Minister, acquires, disposes of or otherwise deals with any foreign securities, whether within or outside Malawi, is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years.

(2) Sub regulation (1) does not apply to the acquisition of foreign securities otherwise than for valuable consideration.

## **PART VI - COMPANIES**

### **21.-**

(1) For the purposes of this Part, "foreign company" means a body corporate (not Incorporated under the law of Malawi) in the case of which any of the following conditions is fulfilled namely-

(a) that it is by any means controlled (whether directly or indirectly) by residents of Malawi :

(b) that more than one-half of the sums which, on a liquidation thereof, would be receivable by holders of share or loan capital would be receivable (whether directly or indirectly) by or for the benefit of residents of Malawi ;

(c) that more than one-half of the assets which, on a liquidation thereof, would be available for distribution after the payment of creditors would be receivable (whether directly or indirectly) by or for the benefit of residents of Malawi or

(d) that more than one-half-

(i) of the interest payable on its loans and loan capital, if any;

(ii) of the dividends payable on its preference share capital, if any; or

(iii) of the dividends payable on its share capital, if any, not being preference share capital, is receivable (whether directly or indirectly) by or for the benefit of residents of Malawi.

(2) Where the identity of the persons by whom or for whose benefit any sum, assets, interest or dividends are directly or indirectly receivable depends on the exercise by a resident of Malawi of a power of appointment or similar power, the sum, assets, interest or dividends shall, for the purposes of this Part, be declared to be receivable directly or indirectly by or for the benefit of residents of Malawi.

(3) For the purposes of this Part, residents or non-residents of Malawi, as the case may be, shall be deemed to control a body corporate notwithstanding that other persons are associated with them in the control thereof if they can together override those other persons.

## **22.-**

(1) Where there is served on any resident of Malawi a notice in writing that the Bank wishes any requirements of the kind referred to in sub regulation (2) to be complied with by any foreign company, and that person can, by doing or refraining from doing any act-

(a) cause the foreign company to comply with any of those requirements ;

(b) remove any obstacle to the foreign company complying with any of those requirements; or

(c) render it in any respect more probable that the foreign company will comply with any of those requirements, then, except so far as permission to the contrary may be given by the Minister, that person shall do or, as the case may be, shall refrain from doing that act.

(2) The requirements with respect to which a notice under sub- regulation ( 1) may be given are as follows, that is to say, that the foreign company shall-

- (a) furnish to the Minister such particulars as to its assets and business as may be mentioned in the notice ;
- (b) sell or procure the sale to an authorized dealer of any bullion or foreign currency Which it is entitled to sell or of which it is entitled to procure the sale ;
- (c) declare and pay such dividend as may be mentioned in the notice ;
- (d) realize any of its assets mentioned in the notice in such manner as may be so mentioned ;
- (e) refrain from selling, transferring, or doing anything that affects its rights or powers in relation to, any such securities as may be mentioned in the notice.

### **23.-**

- (1) Subject to sub regulation (2), no resident of Malawi shall, without the permission of the Minister, do any act whereby a body corporate which is by any means controlled (whether directly or indirectly) by residents of Malawi ceases to be so controlled.
- (2) A person who has sought and has obtained the Minister's permission to offer a body corporate securities and obligations for sale on an approved stock exchange shall, if the permission includes all the body corporate securities and obligations, be deemed to be exempt from the provisions of sub regulation (1) where such change in control derives from the acquisition of such securities.
- (3) A person, being a resident of Malawi, who contravenes sub- regulation (1) shall be guilty of an offence and liable to a fine of K10,000 and to imprisonment for two years.

### **24.-**

- (1) Subject to sub regulation (2), no resident of Malawi shall, without the permission of the minister, lend any money or securities to a body corporate that is a non-resident of Malawi and which is by any means controlled (whether directly or indirectly) by persons who are non-residents of Malawi.
- (2) Sub regulation (1) does not apply in the case of a lender who, after making such inquiries as are reasonable in the circumstances of the case, does not know and has no reason to suspect that the body corporate concerned is controlled as provided in sub regulation (1).
- (3) A person who, being a resident of Malawi, without the permission of the Minister, lends any money or securities in contravention of sub regulation (1) is guilty of an offence and liable to a fine of K25,000 and to imprisonment for three years.

### **25.-**

- (1) A person shall not, without the permission of the Minister, be in possession in Malawi of foreign currency.

(2) Unless in possession with the permission of the Minister, a person in possession in Malawi of foreign currency shall offer such foreign currency, or cause it to be offered, for sale to an authorized dealer.

(3) In any proceedings in respect of a contravention of sub- regulation (2) the burden is upon the accused person to prove that the foreign currency in question has been offered for sale to an authorized dealer.

(4) A person shall be deemed to be in contravention of sub- regulation (2) if the offer made or caused to be made by him is at a price exceeding that authorized by the Minister or is without payment of any usual and proper charges of the authorized dealer or is otherwise on any unusual terms.

(5) Any person who contravenes sub regulation (1) or (2) is guilty of an offence and liable to a fine of K10,000 and to imprisonment for two years.

(6) This regulation does not apply to-

(a) a person who is not ordinarily resident in Malawi ;

(b) any authorized dealer;

(c) a person who under any written law or contract is for the time being lawfully exempted from the requirements of sub- regulations (1) and (2) either expressly or by necessary implication.

## **PART VII - MISCELLANEOUS**

**26.**-(1) In this regulation, "blocked account" means an account conducted with the Bank, or with an authorized dealer, declared by the Minister to be a blocked account, but does not include an account which the Minister declares shall no longer be a blocked account.

(2) Where under any provision of these Regulations permission is required for the making of a payment to, or the placing of a sum to the credit of, a person who is a non-resident of Malawi, the Minister may direct that the sum be paid or credited to a blocked account and, in that event, such payment or credit shall be made accordingly.

(3) When the Minister directs that any sum be paid or credited to a blocked account, the sum may with the consent of the person to whom it is to be paid or credited and subject to these Regulations, be invested instead in the purchase for that person of any such investment as may be approved by the Minister for the purposes of this regulation; and where investments are so purchased nothing in this regulation restricts the manner in which the investment may be dealt with.

(4) Subject to sub-regulation (5), where the Minister directs that a sum be paid or credited to a blocked account, compliance, to the extent of the sum paid or credited, is a good discharge to the person making the payment or credit.

(5) In the case of a sum due under a contract sub regulation (4) does not apply in so far as it is shown to be inconsistent with the intention of the parties that it should apply.

(6) Subject to sub regulation (3), a person who, without the permission of the Bank-

(a) makes any payment out of, or is a party to any transaction having the effect of making a payment out of, a blocked account ;

- (b) assigns or charges any money standing to the credit of a blocked account; or
- (c) makes any change in the name in which a blocked account stands. is guilty of an offence and liable to a fine of K10,000 and to imprisonment for two years.

**27.-** (1) In this regulation-

"officer" means an officer within the meaning of that word in the Customs and Excise Act or a member of the Malawi Police Force and includes a person authorized by the Minister to act as an officer for the purposes of this regulation ;

"traveller" means a person who is about to leave Malawi.

(2) A traveller shall, if requested to do so by an officer-

(a) declare whether or not he has any bullion, foreign currency, Malawi currency or securities with him;

(b) declare, whether or not he has with him anything prohibited by these Regulations to be exported from Malawi; and

(c) produce any such bullion, foreign currency, Malawi currency, securities and thing which he has with him.

(3) Subject to regulation (4), an officer and any person acting under the directions of an officer may search the traveller and examine and search any article which the traveller has with him, for the purpose of ascertaining whether he is conveying or has in his possession anything of the kind referred to in sub regulation (2) (a) or (b).

(4) A person shall not be searched under sub regulation (3) except by an officer or person of the same sex.

(5) An officer and any person acting under the directions of an officer may go on board or enter any aircraft, vehicle or vessel for the purpose of exercising the powers conferred on him by this regulation, and may examine or search the aircraft, vehicle or vessel and anything found on or in it, for the purpose of ascertaining whether there is anything of the kind referred to in sub- regulation (2) (a) or (b) on or in it to be taken or sent out of, or exported from, Malawi in contravention of these Regulations.

(6) An officer may seize anything found upon such examination or search, which, in his opinion, is in the possession of any traveller, or on board or in any aircraft, vehicle or vessel, to be taken or sent out of, or exported from, Malawi in contravention of these Regulations.

(7) For the purposes of sub regulations (5) and (6), the words "aircraft", "vehicle" and "vessel" have the same meaning as is respectively assigned thereto by section 2 (1) of the Customs and Excise Act

**28.-**

(1) Where a resident of Malawi leaves Malawi for a destination outside Malawi (whether immediate or ultimate) the Minister may direct that, for such period as may be specified in the direction, payments by him or on his behalf and to him or his credit, and

transactions in or in relation to securities in which he is in any way concerned, shall, whether or not he continues to be a resident of Malawi, be subject to such restrictions as may be specified in the direction.

(2) A direction given under sub regulation (1)-

(a) may be either general or specific;

(b) may be given in relation to a resident about to leave or after he has left for a destination outside Malawi; or

(c) may be revoked or varied by a subsequent direction given by the Minister .

## **29.-**

(1) Except with the permission of the Minister, no person shall export moveable property of a value exceeding, in aggregate, ( KI00 unless the Controller of Customs and Excise is satisfied that-

(a) payment in respect of the property has been made to a person resident in Malawi in accordance with the permission of the Minister or is to be so made within five working days after payment for the exports is made; and

(b) the amount of the payment that has been made or is to be made is such as to represent a return for the property that, in all the circumstances, is satisfactory in the interests of Malawi : Provided that the Minister may direct that paragraph (a) shall have effect in any particular cases or class of cases as if for the reference to five working days there were substituted a reference to such longer or shorter period as may be specified in the direction.

(2) The Controller of Customs and Excise, for the purpose of satisfying himself with respect to the matters specified in sub regulation (I), may require the person making entry of the property for export to deliver to him, together with the entry, such declaration signed by such person as the Controller may require; and where such declaration has been required the property shall not be exported until the declaration has been delivered.

(3) If, with respect to any of the matters specified in sub regulation (I) (b), the Controller of Customs and Excise is not satisfied, he shall give his reason to the person making entry of the property for export and shall take into consideration any representation made to him by that person.

(4) If payment in respect of any property exported is not made within the period within which it ought to be made under sub regulation (1) the Minister may-

(a) give such directions as he deems expedient to any person for the purpose of obtaining or expediting the receipt of such payment; or

(b) if the property has not been sold, give such directions as he deems expedient as to how the property shall be dealt with, including if he thinks fit a direction that the property shall be assigned to the Minister or to such other person as may be specified therein to be dealt with in such manner as the Minister thinks fit.

## **30.-**

(1) Every person-

(a) to whom permission has been given under these Regulation subject to a condition providing that, or on the faith of an application stating an intention that, any moveable property will be imported; or

(b) by whom any currency has been obtained in Malawi on the faith of an application stating an intention that any moveable property will be imported, shall, if the property is not imported within three months of the date ; when the permission was given or, as the case may be, when the currency was obtained, notify in writing all the material particulars with respect to such property to an authorized dealer, and the notification shall be given within the period of 7 days, immediately following the date of expiry of the three months.

(2) Where in any such case as is specified in paragraph (a) of sub regulation (I) the moveable property concerned has not been imported within three months as aforesaid, the Minister may give to any person who appears to the Minister to be in a position to give effect thereto such directions as appear to the Minister to. be expedient as to the manner in which the property is to be dealt with.

(3) Without prejudice to the generality of sub regulation (2), the power thereby conferred on the Minister extends to the giving of a direction that the property shall be assigned to the Minister or to such other person as may be specified in the direction.

## **PART VIII - LEGAL PROVISIONS AND OFFENCES**

### **31.-**

(1) The application of any of the provisions of Part III in relation to any sum is not affected by the fact-

(a) that the sum is required to be paid by a judgment or order of a court or by an award; or

(b) that the sum is paid out of a court, whether by order of the court or otherwise.

(2) Without prejudice to the provisions of any written law relating to the making of rules of court, rules of court may be made (as respects the High Court or any other court) by the Chief Justice-

(a) enabling any person who is required by any judgment order or award to pay any sum, if he apprehends that the payment of that sum is unlawful under these Regulations except with the permission of the Minister, to pay that sum into court;

(b) declaring that payment of a sum into a court by virtue of rules made under subparagraph (a) together with the delivery to the other party concerned of such evidence of the payment as may be prescribed by the rules shall, to be extent of the payment, be a good discharge to the person making the payment; and

(c) so regulating the process of executions which may arise in respect of any sum required to be paid by any judgment, order or award as to secure that, unless it is shown, in such manner that the permission of the Minister for the payment of the sum is not

required under these Regulations or has been given without conditions, the proceeds of the execution will be paid into court and, so far as necessary for that purpose, varying the form of any writ of execution or other similar document or the duties of the person to whom any such writ or other document is directed.

(3) In any proceedings in a court or tribunal, a claim for the recovery of a debt shall not be defeated by reason only of the debt not being payable without permission of the Minister and of that permission not having been given or having been revoked.

(4) Where any bankruptcy, winding up of a company, or administration of the estate of a deceased person, is carried on under the law of Malawi, a claim for a sum not payable without the permission of the Minister shall, notwithstanding that the permission has not been given or has been revoked, be admitted to proof as if it had been given and not been revoked, but without prejudice to the application of any of the provisions of Part III or IV to the payment of any sum pursuant to such a claim.

(5) A debt for the payment of which the permission of the Minister is required under these Regulations shall, if in other respects it is not to be precluded from being so under the provisions of any written law relating to bankruptcy for the time being in force in Malawi, be allowed to be a good petitioning creditor's debt notwithstanding that requirement if, and to the extent that, the debt can be satisfied either by a payment into court or to a blocked account so declared by the Minister in pursuance of regulation 27 (1).

### **32.-**

(1) Subject to sub regulation (2), it shall be an implied condition in any contract that where, by virtue of these Regulations, the permission of the Minister is at the time of the contract required for the performance of any term thereof, that term shall not be performed except in so far as the permission is given or not required.

(2) Sub regulation (1) does not apply in any case where it is shown to be inconsistent with the intention of the parties that it should apply, whether by reason of their having contemplated the performance of that term notwithstanding the provisions of these Regulations, or for any other reasons.

(3) Notwithstanding anything in the Bills of Exchange Act, neither the provisions of these Regulations nor any conditions whether expressing or to be implied having regard to those provisions, that any payment shall not be made without the permission of the Minister under these regulations, shall operate to prevent any instrument being a bill of exchange or a promissory note.

### **33. A person who makes-**

(a) to an Officer Within the meaning of regulation 28(1) ;

(c) to an officer of the Bank; or

(c) to an authorized dealer, any statement, whether oral or in writing, in pursuance of these Regulations or relating to any act, transaction, matter or thing to which any provision of these Regulations applies, which he knows to be untrue or which is

misleading in any particular or which is made by him without his having first made proper inquiries to ascertain its truth, is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

**34.** A person who makes or enters into any arrangements, whether oral or in writing, for the purpose of, or which have the effect of, in any way, whether directly or indirectly, defeating, evading or avoiding, or preventing the operation of, these Regulations in any respect is guilty of an offence and liable to a fine of K5,000 and to imprisonment for two years.

**35.-**

(1) Any person who discloses information obtained by virtue of the provisions of these regulations otherwise-

(a) than in the proper discharge of his functions;

(b) than for the purpose of any criminal proceedings;

(c) than when required to do so for the purposes of a statistical inquiry being conducted or directed under section 5 of the Statistics Act;

(d) than when ordered to do so by a court; or

(e) than for a specific purpose approved in writing by the Minister, is guilty of an offence and liable to a fine of K2,000 and to imprisonment for two years.

**36.-**

(1) When a person is convicted of an offence against these Regulations the court, if it thinks fit, may in addition to any other punishment order the forfeiture of any bullion, foreign currency or foreign exchange in respect of which the offence has been committed, whether the person convicted or some other person is the owner thereof.

(2) When a person convicted of an offence under these Regulations has acquired, whether directly or indirectly, any property by reason of his contravention of any of the provisions of these Regulations, including non-compliance with the terms and conditions of any permission under these Regulations, the court may, in addition to any other penalty, direct that person to sell, or procure the sale of, the property and may, by the same or a subsequent direction, specify the manner in which, the person to whom, and the terms on which, the property shall be sold.

(3) Where a person fails or refuses to comply with a direction given under sub regulation (2), the court may direct that the property vest in the Administrator General, subject to sub-regulation (4).

(4) Where, under sub regulation (3), a court directs that any property vest in the Administrator General, it vests in the Administrator General free from any mortgage, pledge or charge, and the Administrator General may deal with it as he thinks fit, but he shall pay to any person, other than the person convicted, who would but for the vesting be entitled to the property, a sum in Malawi currency fixed by the court ( or in the case of a

non-resident person an equivalent sum in foreign currency) not being less than ninety per centum of the amount that, in the opinion of the court, represents the value of the property in the country in which he is resident at the time when the vesting occurred.

**37.-**

(1) Where an offence against these Regulations is proved to have been committed by a body corporate with the consent or connivance of any director, manager, secretary or other officer of the body corporate, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) Notwithstanding anything to the contrary contained in these Regulations, where an offence against these Regulations is proved to have been committed by a body corporate there is no limit to the fine which may be imposed in respect thereof.

**FIRST SCHEDULE - AUTHORIZED DEALERS**

1. Reserve Bank of Malawi
2. Barclays Bank D.C.O.
3. The Standard Bank Limited
4. Commercial Bank of Malawi Limited 5. National Bank of Malawi

**SECOND SCHEDULE - SCHEDULED AREA**

- I. Any independent Commonwealth country, except Canada and Malawi
2. Any colony of the United Kingdom other than Southern Rhodesia
3. Any territory administered by the Government of any Commonwealth country under the trusteeship system of the United Nations
4. Any British protectorate or British protected state
5. South West Africa
6. The Republic of Ireland
7. Iceland
8. The Hashemite Kingdom of the Jordan
9. The United Kingdom of Libya
10. The Republic of South Africa
11. The State of Kuwait
12. The People's Democratic Republic of Yemen
13. Western Samoa

### **THIRD SCHEDULE - MONETARY AREAS**

I. The Scheduled Area.

2. The Belgian Monetary Area, that is to say-

- (a) Belgium;
- (b) Luxembourg.

3. The Danish Monetary Area, that is to say-

- (a) Metropolitan Denmark;
- (b) Faroe Islands;
- (c) Greenland.

4. The French Franc Area, that is to say-

#### **I: The Territory of the French Republic, that is**

(a) Metropolitan France and Corsica ;

(b) Overseas Departments that is-

- (i) Guadeloupe ;
- (ii) Martinique ;
- (iii) French Guiana ;
- (iv) Reunion.

(c) French Overseas Territories (excluding French Somaliland) that is-

- (i) The Comores;
- (ii) St. Peter and Miquelon ;
- (iii) New Caledonia;
- (iv) Wallis Island and Futuna;
- (v) French Polynesia.

#### **II : Condominium of the New Hebrides ; IJ] : Algeria;**

Cameroon Republic;

Central African Republic ;

Congo Republic (Brazzaville);

Dahomey Republic ;

Gabon Republic,

Guinea Republic;

Ivory Coast Republic;

Malagasy Republic;

Mali Republic ;

Islamic Republic of Mauritania;

Principality of Monaco;

Kingdom of Morocco;

Niger Republic;

Senegal Republic;

Chad Republic;

Republic of Togoland;

Tunisian Republic;

Republic of Upper Volta.

5. The Netherlands Monetary Area, that is to say-

(a) The Netherlands;

(b) Surinam;

(c) The Netherlands Antilles.

6. The Norwegian Monetary Area, that is to say-

(a) Metropolitan Norway;

(b) Island Group of Svalbard (Spitzbergen);

(c) Island of Jan Mayen;

(d) Dependencies in the Antarctic.

7. The Portuguese Monetary Area, that is to say-

(a) Metropolitan Portugal;

(c) Islands of Madeira and Azores;

(d) Overseas Territories, that is-

(i) Angola including Cabinda;

(ii) Mozambique ;

(iii) Portuguese Guinea ;

(iv) Cabo Verde;

(v) Sao Tome e Principe ;

(vi) (vi) Timor ;

(vii) Macao.

8. The North American Monetary Area, that is to say-

(a) United States of America;

(b) Canada.

**FOURTH SCHEDULE - FORM OF DECLARATION**

The holder of the above-mentioned security is not resident outside Malawi and from the facts known to us, or from inquiries we have made, is not, to the best of our belief, holding the security as a nominee of a person resident outside Malawi.

**FIFTH SCHEDULE-BODIES CORPORATE EXEMPT FROM REGULATION 25**

- I. Barclays Bank D.C.O.
- 2. The Standard Bank Limited
- 3. Commercial Bank of Malawi Limited
- 4. National Bank of Malawi

**SIXTH SCHEDULE G.N. AUTHORITY FOR EXPORT OF CURRENCY BY DIPLOMATIC PERSONNEL**

**PART I** The official named hereunder is authorized to export the foreign currency(ies) shown below- *Full Name*

.....

*Mission Passport No.*

.....

.....

.....

*Currency*

.....

(Give type(s) of currency and amount in words and figures)

..... *Signature of Head of*

*Mission*

..... *Date*

**PART 2** Seen: Certified

exported

..... *Signature*

**PART 3** For use by Reserve Bank of Malawi-Exchange Control Department.

Notice of Deregulation Powers **SUBSIDIARY LEGISLATION**

**NOTICE OF DELEGATION OF POWERS**

*Under reg. 30 (4)*

*of the Exchange Control Regulations*

The Minister of Finance has delegated to the Reserve Bank of Malawi, subject to regulation 32 of the Exchange Control Regulations, all the powers conferred upon him by the said Regulations except the powers for which provision is made in-

- (a) regulation 6 (4);
- (b) regulation 15 (2);
- (c) regulation 19 (4);
- (d) regulation 20 (2) and (3) ;
- (e) regulation 21 ;
- (f) regulation 22.

### **NOTICE OF DELEGATION OF POWERS 87/1970**

*under reg. 30 (4)*

*of the Exchange Control Regulations*

The Minister has delegated, subject to the provisions of regulation 32 of the said Regulations, all the powers conferred upon him by regulation 33 of the said Regulations to the persons for the time being respectively holding the following offices-

- (i) the Governor of the Reserve Bank of Malawi ;
- (ii) the Commissioner of the Malawi Police Force;
- (iii) the police officer in charge of the Criminal Investigation Division of the Malawi Police Force; and
- (iv) the police officer in charge of the Fiscal Section of such Criminal Investigation Division.

*Exchange Control (Maintenance of Register) Regulations*

### **EXCHANGE CONTROL (MAINTENANCE OF REGISTER) G.N.**

#### **REGULATIONS - under s. 3 (1) 2 (e)**

1. These Regulations may be cited as the Exchange Control (Maintenance of Register) Regulations.
2. All importers of gold and all persons who purchase gold for resale either in its original form or in a manufactured form shall maintain a register of all gold purchased or sold by them and of all gold which at any time they have in their possession.
3. Any person required under regulation 2 to maintain a register shall produce it for inspection on demand being made to them by the Commissioner of Police or any Police Officer not below the rank of Sub-Inspector duly authorized by him in writing.
4. Such register shall contain the following information-
  - (a) quantity (in fine ounces) of gold imported and dates received.
  - (b) Name and address(es) of person(s) from whom gold has been imported.

(c) Purpose(s) for which gold is imported.

(d) Description of articles manufactured from the gold and quantity (in fine ounces) of gold used in each article.

(e) Quantity (in fine ounces) of gold wasted in the process of manufacture.

(f) Name(s) of customer(s) to whom articles have been sold, or an indication of how the articles have been disposed of (e.g. export).

(g) Quantity (in fine ounces) of gold in stock.