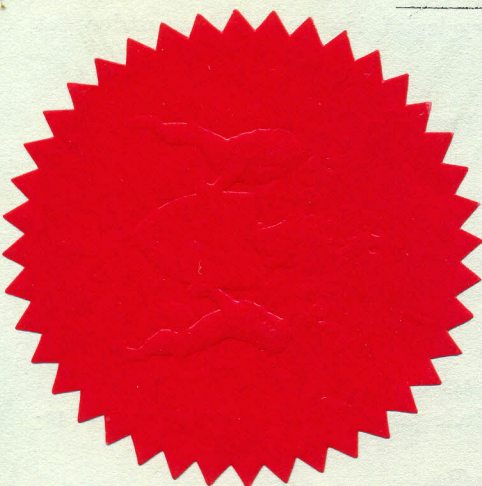


MALAWI GOVERNMENT

Act

36 of 1966

I assent



H. Kamuzu Banda

PRESIDENT

26th August, 1966.

ARRANGEMENT OF SECTIONS

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An Act to make provision with regard to the construction, application and interpretation of written law, to make certain general provisions with regard to such law and other like purposes

ENACTED by the Parliament of Malawi

1. This Act may be cited as the General Interpretation Act, 1966.

Short title

2.—(1) In this Act and, subject to section 57, in every other written law enacted, made or issued before or after the coming into operation of this Act, the following words and expressions shall have the meanings respectively assigned to them, unless there is something in the subject or context inconsistent with such construction or unless it is therein otherwise provided—

Interpretation of words and expressions

“act” used with reference to an offence or civil wrong includes an omission and extends to a series of acts and omissions;

“Act” used with reference to legislation means an Act of Parliament and any applied law having the force of an Act of Parliament in the Republic by virtue of the Republic of Malawi (Constitution) Act, 1966;

“administrative officer” means a Government Agent;

23 of 1966

“amendment” includes repeal, addition, variation and substitution;

“applied law” means any legislation made outside Malawi which, by virtue of any Act, has effect within Malawi;

“Cabinet” means the Cabinet constituted by or under the Constitution;

“calendar year” means the period from the 1st January to the 31st December in the same year including both those days;

“cognizable to the police” and “cognizable” used with reference to an offence means that a police officer may arrest without warrant a person whom he suspects upon reasonable grounds of having committed that offence;

“commencement” used with reference to a written law means the date on which that written law comes into operation;

“Consolidated Fund” means the Consolidated Fund established under the Constitution;

“Constitution” means the Constitution of the Republic of Malawi established by section 4 of the Republic of Malawi (Constitution) Act, 1966, and set forth in the Second Schedule thereto;

23 of 1966

“consular officer” means consul-general, consul, vice-consul, consular agent, and any person for the time being authorized to discharge the duties of consul-general, consul, vice-consul or consular-agent;

“contravene” in relation to any requirement or condition specified in any written law, or in any permit, licence or other authority granted under any written law, includes a failure to comply with that requirement or condition;

“court” means any court of the Republic of competent jurisdiction;

“Crown Agents” and “Crown Agents for Oversea Governments and Administrations” both mean the persons for the time being acting as Crown Agents in England for Oversea Governments and Administrations;

“customary land” has the meaning assigned thereto in the Malawi Land Act, 1965;

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“customary law” means the customary law applicable in the area concerned;

“District” means one of the districts into which the Republic is divided for purposes of administration;

“export” means to take or cause to be taken out of Malawi by any means whatsoever;

“ Gazette ” means the Malawi Government Gazette and includes any supplement thereto and any Gazette Extraordinary;

“ Government ” means the Government of the Republic established under the Constitution;

“ Government Agent ” means the administrative officer in charge of a District and includes an Assistant Government Agent;

“ government analyst ” includes any assistant or other analyst employed by the Government;

“ government notice ” means any notice published as such in the Gazette;

“ Government Printer ” means the Government Printer of Malawi and any other printer authorized by or on behalf of the Government to print any written law or other document of the Government;

“ immovable property ” means land whether covered by water or not, any estate or interest in or over land or arising out of or relating to land and anything permanently attached to the earth or permanently fastened to anything so attached;

“ import ” means to bring or cause to be brought into Malawi by any means whatsoever;

“ judge ” means a judge of the High Court and includes the Chief Justice;

“ law officer ” means a person for the time being holding the office of Attorney-General or Solicitor-General;

“ land surveyor ” means a person lawfully entitled to carry out surveys of land under any written law;

“ legal practitioner ” means a person entitled to practice as such under any Act for the time being applicable to legal practitioners;

“ local authority ” means a District Council established under the Local Government (District Councils) Ordinance and a Municipal or Town Council constituted under the Local Government (Urban Areas) Act, and includes any officer carrying out the functions of any such Council;

“ master ” used with reference to a ship means the person (except a pilot or harbour-master) having for the time being control, charge or command of such ship, and with reference to an aircraft means the person having for

Cap. 100

18 of 1965

the time being control, charge or command of such aircraft;

Cap. 174

“magistrate” means a magistrate of a subordinate court constituted by the Courts Ordinance;

“Malawi” means the territories comprised in the Republic;

“medical practitioner” means a medical practitioner duly registered or licensed as such under any Act for the time being applicable to the registration or licensing of medical practitioners;

“Minister” means a person appointed as a Minister of the Government under the Constitution;

“the Minister” means the Minister for the time being charged with responsibility for the matter in question, and includes the President when he has assigned to himself or is exercising such responsibility;

“month” means a calendar month;

“movable property” means property other than immovable property;

“oath” and “affidavit”, in the case of a person allowed by law to affirm or declare instead of swear, include affirmation or declaration;

“Ordinance” means an Ordinance enacted in the former Nyasaland Protectorate;

“Parliament” means the Parliament of the Republic established by the Constitution;

“Permanent Secretary” in relation to a Ministry means the public officer appointed as the Civil Service head of that Ministry;

“person” includes any company or association or body of persons, corporate or unincorporate;

Cap. 64

“police officer” means any member of the Malawi Police Force constituted under the Police Ordinance;

“power” includes any privilege, authority or discretion;

“prescribed” means prescribed by or under the Act in which the word occurs;

“President” means the President of the Republic;

“private land” has the meaning assigned thereto in the Malawi Land Act, 1965;

“property” includes money, and every description of property, whether movable or immovable, animate or inanimate, obligations and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property;

“public holiday” means a day which the Minister may, by notice in the Gazette, declare to be a public holiday;

“public land” has the meaning assigned thereto in the Malawi Land Act, 1965;

“public office” means any office the holder of which is invested with or performing duties of a public nature;

“public officer” means a person holding or acting in any public office;

“public place” means every public highway, street, road, square, court, alley, lane, bridleway, footway, parade, wharf, jetty, quay, bridge, public garden, open space, theatre, place of public entertainment of any kind and other place to which the public are entitled or permitted to have access whether on payment or otherwise;

“Public Seal” means the Public Seal of Malawi;

“Region” means one of the regions into which the Republic is divided for purposes of administration;

“registered” used with reference to a document means registered under the law for the time being applicable to the registration of such document;

“Registrar-General” includes the Assistant Registrar-General;

“repeal” includes rescind, revoke, cancel or delete;

“Republic” means the Republic of Malawi;

“road” has the meaning assigned to the word street;

“rule” includes rule of court, by-law and regulation;

“rule of court”, when used in relation to any court, means a rule or order made by the authority empowered to make rules or orders regulating the practice and procedure of such court;

“sell” includes barter, exchange, and offer to sell or expose for sale;

“signature” with reference to a person who is unable to write his name, includes mark or thumbprint;

“statutory declaration” if made—

(a) in the Republic, means a declaration made under the Statutory Declarations Ordinance;

(b) in any other place, means a declaration made before a Malawi diplomatic or consular officer, a Notary Public or any other person having authority under the law of that place to take or receive a declaration;

“street” means any highway, street, road, bridge, square, court, alley, lane, bridleway, footway, parade, thoroughfare, passage or open space to which the public are entitled or permitted to have access whether on payment or otherwise;

Cap. 174

“subordinate court” means a court constituted by the Courts Ordinance subordinate to the High Court;

“subsidiary legislation” means a proclamation, regulation, rule, order, notice, by-law or other instrument made under any written law and having legislative effect;

“Supreme Court of Appeal” means the Supreme Court of Appeal established under the Constitution;

“swear” in the case of a person allowed by law to affirm includes affirm;

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“Township” has the meaning assigned to that expression in the Local Government (Urban Areas) Act;

“treaty” means a treaty, convention or agreement made with a foreign state, together with any protocol, annex or declaration attached thereto, or independent thereof but referring thereto;

“United Kingdom” means Great Britain and Northern Ireland;

“will” includes codicil;

“writing” and expressions referring to writing include printing, photography, lithography, type-writing and any other modes of representing or reproducing words in visible form;

“written law” means the Constitution, Acts, applied law and subsidiary legislation in force in the Republic;

“year” means a year reckoned according to the Gregorian Calendar.

(2) In every written law, unless a contrary intention appears, words and expressions importing the masculine gender include females, and words and expressions importing the female gender include males.

(3) In every written law, unless a contrary intention appears, words and expressions in the singular include the

plural and words and expressions in the plural include the singular.

(4) Where the interpretation of any word or expression is defined in this or any other written law, such definition shall extend, with the necessary modifications, to the interpretation of the grammatical variations and cognate expressions of such word or expression.

(5) In every Act, unless a contrary intention appears, the words "chapter", "part", "section" and "schedule" denote respectively a chapter, part or section of or schedule to the Act in which the word occurs; and "subsection", "paragraph" and "sub-paragraph" denote respectively a subsection of the section or a paragraph or sub-paragraph of the section, subsection, paragraph or Schedule in which the word occurs. Corresponding expressions in subsidiary legislation shall be similarly construed and interpreted.

(6) Where any written law authorizes or requires any document to be served by post, whether the expression "serve" or "give" or "send" or any other expression is used, then, unless a contrary intention appears, the method of service may be by properly addressing to the last known postal address of the person to be served and prepaying and posting, by registered post, a cover containing the document, and in such case, unless the contrary is proved, service shall be deemed to have been effected at the time at which the cover would be delivered in the ordinary course of the post.

3. Every Act enacted by Parliament shall be a public Act and shall be judicially noticed as such.

Acts shall be
judicially
noticed

4. Where, by or under any written law, it is provided that subsidiary legislation may be made or that any appointment may be made, function performed or power exercised with the approval or consent of, or after consultation with, the President or Minister or any other authority, a notification in the Gazette stating that such approval or consent has been given or that such consultation has taken place shall be *prima facie* evidence in all courts and for all purposes whatsoever of such approval, consent or consultation.

Notification
of approval
of
appointment
etc.

5. Where a form is prescribed or specified by any written law, deviations therefrom neither materially affecting the substance nor calculated to mislead shall not invalidate the form used.

Forms

Acts to be
divided into
sections

6. All Acts shall be divided into sections, if there be more enactments than one, which sections shall be deemed to be substantive enactments without any introductory words.

Mode of
citing
written laws

7.—(1) Where any written law is referred to, it shall be sufficient for all purposes to cite such written law either by the short title or citation, if any, by which it is made citable, or, in the case of an Act, by the year in which it was made and its number among the Acts of that year, or, in the case of any revised edition of the written laws issued under any Act providing for the issue of a revised edition, by its short title or its chapter number; and the reference may in all cases be made according to the copies of the written law printed by the Government Printer.

(2) Any such citation of a written law shall, unless a contrary intention appears, be construed as a reference to such written law as amended from time to time by any other written law.

Schedules
and tables to
be part of
written law

8. Every Schedule to or table in any written law shall, together with the notes thereto, be construed and have effect as part of such written law.

Time when
written law
comes into
operation

9.—(1) Subject to subsection (2) an Act assented to by the President shall come into operation immediately on the expiration of the day next preceding the day on which it is published in the Gazette.

(2) Where it is enacted in the Act, or in any other written law, that such Act or any provision thereof shall come or be deemed to have come into operation on some specified day, the Act or, as the case may be, such provision shall come or be deemed to have come into operation immediately on the expiration of the day next preceding such day.

Repealed
written law
not revived

10. Where any written law repealing in whole or in part any former written law is itself repealed, such last repeal shall not revive the written law or provisions before repealed unless words be added reviving such written law or provisions.

Repeal of
amended
written law
to include
amendment

11. Where any written law which has been amended by any other written law is itself repealed, such repeal shall, unless a contrary intention appears, include the repeal of all those provisions of other written laws by which such first-mentioned written law has been amended.