

*Reserve Bank of Malawi*

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## LAWS OF MALAWI (CHAPTER 44 :02)

### RESERVE BANK OF MALAWI ACT

An Act for the establishment of the Reserve Bank of Malawi; regulate the issue of bank notes and coins; to confer and impose on the Reserve Bank of Malawi certain powers and duties; to provide for matters connected with banking, currency and coinage; to provide for the supervision of banks and financial institutions; and for matters connected therewith and incidental thereto,

[1st MAY, 1989]

#### PART I PRELIMINARY

1. This Act may be cited as the Reserve Bank of Malawi Act.

2. In this Act, unless the context otherwise requires-

"**agency**" means any institution, other than a bank, established or appointed under section 18;

"**Bank**" means the Reserve Bank of Malawi established under section 3;

"**bank**" means any person who is registered as a bank under the Banking Act;

"**Board**" means the Board of Directors of the Bank established under section 6;

"**convertible currency**" means any currency, which is freely negotiable and transferable in international exchange markets at exchange rates consistent with the Articles of Agreement of the International Monetary Fund in force from time to time;

"**deposit liabilities**" means liabilities arising from demand, time and savings deposits;

"**Deputy Governor**" means the Deputy Governor of the Bank appointed under section 12;

"**director**" means a member of the Board and includes the Governor and Deputy Governor;

"**external currency**" means any currency, other than the currency issued by the Bank under this Act;

"**financial institution**" means any person, other than a bank, who *is* registered as a financial institution under the Banking Act;

"**Governor**" means the Governor of the Bank appointed under section 12;

"**Malawi currency**" means the legal tender currency of Malawi issued by the Bank under this Act;

"**other financial institutions**" includes financial institutions and pensions, assurance and insurance institutions;

"**statutory body**" has the meaning assigned thereto in the Finance and Audit Act;

#### PART II ESTABLISHMENT OF THE BANK 3. -

(1) The Reserve Bank of Malawi shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name, and which, subject to this Act, may acquire, hold and dispose of moveable and immoveable property for the purpose of its functions.

(2) The Bank shall have its head office in Lilongwe and may open branches in Malawi and appoint agents and correspondents in accordance with the decisions of the Board.

(3) The common seal shall be affixed under such conditions as the Board may from time to time determine.

### **PART III PRINCIPAL OBJECTIVES OF THE BANK**

. The principal objectives of the Bank shall be

- (a) to issue legal tender currency in Malawi;
- (b) to act as banker and adviser to the Government;
- (c) to maintain external reserves so as to safeguard the inter- national value of the Malawi currency;
- (d) to implement measures designed to influence the money supply and the availability of credit, interest rates and exchange rates with the view to promoting economic growth, employment, stability in prices and a sustainable balance of payments position ;
- (e) to promote a sound financial structure in Malawi, including payment systems, clearing systems and adequate financial services;
- (f) to promote a money and capital market in Malawi;
- (g)to act as lender of last resort to the banking system ;
- (h) to supervise banks and other financial institutions;
- (i) to collect economic data of the financial and other sectors for research and policy purposes; and
- (j) to promote development in Malawi.

(2) In pursuing, or in performing any functions in the pursuit of, its principal objectives, the Bank shall act with due regard to the interest of the national economy and to the economic policies of the Government.

### **PART IV CAPITAL AND RESERVES**

5. -

(1) The capital of the Bank shall be three million Kwacha.

(2) The capital may, from time to time, be Increased by such amount as the Board may resolve with the consent of the Minister, and the Government shall subscribe and pay up, at par, the amount of such increase; and the Government shall ensure that the Bank is kept solvent at all times.

(3) The capital shall be exclusively held by the Government.

(4) The Bank shall create and maintain reserves in accordance with section 54 of this Act.

## **PART V ORGANIZATION AND ADMINISTRATION**

### **6.**

(1) There shall be a Board of Directors of the Bank, which shall be responsible for the administrative and management policy of the Bank.

(2) The Board shall consist of the Governor, Deputy Governor and five other directors who may include the Secretary to the Treasury, the Secretary for Economic Planning and Development and the Accountant General.

(3) Every director shall be a person of recognized standing and experience in business, management, profession or academics.

(4) No director shall be or act as a delegate for any commercial, financial, agricultural, industrial or other interest with which he may be or may have been connected.

(5) Every director shall be appointed by the President for a term of two years and shall be eligible for reappointment:

Provided that, with a view to ensuring continuity appointments and reappointments shall, wherever possible, be made in such a way that at least one half of the number of directors shall continue to serve on the Board.

(6) Every director shall be entitled to such fees and allowances as the Board may, with the approval of the Minister, determine.

**7.** The following persons shall not be eligible to be appointed a director, or, if already a director, to remain a director-

(a) a member of the National Assembly;

(b) a director, salaried official, employee or shareholder of any commercial bank ;

(c) a public officer, unless serving by virtue of section 6 (2);

(d) a minor or other person under legal disability;

(e) any person who at any time has been adjudged bankrupt by a competent court, whether in Malawi or elsewhere, or who, whether in Malawi or elsewhere, has made an arrangement or composition with, or has suspended payment to, his creditors;

(f) any person who has at any time been convicted, whether in Malawi or elsewhere, of theft, any offence involving an element of fraud, forgery, issuing of a forged document, or perjury or any similar offence; and

(g) any person removed by a court of competent jurisdiction, whether in Malawi or elsewhere, from an office of trust on account of misconduct in the exercise of his duties in that office.

**8.** Any director may resign his office by giving not less than of directors three months' notice of his intention in that behalf in writing to the appointing authority through the Chairman of the Board.

**9.** Any director shall immediately cease to be a director if he becomes ineligible in terms of section 7 or becomes unable or unfit to perform his duties under this Act.

**10.** Upon the resignation of any director or upon a director ceasing to hold office, before the expiry of the term for which he was appointed, another person shall be appointed in his place.

**11.**

(1) The Governor shall be chairman of the Board and, in his absence the Deputy Governor shall be chairman

(2) Meetings of the Board shall be called by the Chairman and shall be conducted in such manner as the Board may from time to time determine.

(3) The Chairman and three other directors shall form a quorum at any meeting of the Board and, unless otherwise provided or determined by the Board, the decision of the majority of the directors present at any meeting shall constitute the decision of the Board.

(4) The Chairman shall have a deliberative vote and, in addition, in the event of an equality of votes, a casting vote.

(5) No act or proceeding of the Board shall be invalidated merely by reason of the existence of a vacancy or vacancies among the directors.

(6) All *bona fide* acts of a director shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualifications.

**12. -**

(1) The Governor and the Deputy Governor shall each be appointed by the President, by instrument in writing, for a term of five years.

(2) Upon the expiration of the term for which they are appointed both the Governor and the Deputy Governor shall be eligible for reappointment.

(3) The Governor and Deputy Governor shall be persons of recognized professional standing and experience in the fields of economics, finance or banking and shall be appointed on such terms and conditions as may be set out in the instrument in writing mentioned in subsection (1), which terms and conditions shall not be altered to the disadvantage of the Governor or Deputy Governor during the term for which they are appointed.

(4) Neither the Governor nor the Deputy Governor shall occupy any other office or have any other employment, whether paid or otherwise:  
Provided that the Minister may give his express approval to the Governor or Deputy Governor holding a particular office or employment,

**13. -**

(1) The Governor shall be responsible for the day-to-day Executive management of the Bank and shall be answerable to the Board for his actions and decisions

(2) In pursuing monetary and other related policies the Governor or shall be guided by the need to achieve the objectives of the Bank as stipulated in section 4 of this Act

(3) The Deputy Governor shall perform such duties as the Governor may direct and, in the event of the absence or a vacancy in the office of the Governor, the Deputy Governor shall perform the duties of the Governor and shall have and may exercise the powers and perform the functions of the Governor.

(4) In the event of the temporary absence of both the Governor and the Deputy Governor, the Governor shall designate in writing a senior official of the Bank to perform the duties of Governor.

**14. -**

(1) The Governor shall appoint officers and other staff of Appointment the Bank as he considers necessary for the proper carrying out of the powers and functions of the Bank, and shall refer the appointment of senior officers to the Board,

(2) Officers and staff of the Bank shall be employed for such period or periods, receive such salaries and allowances and be subject to such other terms and conditions of service as may be determined by the Board,

(3) The Board-

(a) shall, out of the funds of the Bank, establish and maintain a pension fund for the officers and staff of the Bank and their dependants; and

(b) may, out of the funds of the Bank, establish and maintain a pension fund for the Governor and Deputy Governor

**15.** No salary, fees, wage, or other remuneration, or allowance Salaries paid by the Bank shall be computed by reference to the financial results of the Bank.

**PART VI LEGAL TENDER**

**16.** The unit of currency of Malawi shall be the Kwacha, which Unit shall be divided into one hundred tambala.

**17.** The Bank shall have the sole right of issuing bank notes and coins throughout Malawi and neither the Government any other person shall issue any notes and coins, which are likely to pass as legal tender.

**18.** The Bank shall-

(a) arrange for printing of notes and minting of coins; currency

(b) issue, reissue and exchange notes and coins at the Bank's offices and at such agencies and banks as the Bank may, from time to time, establish or appoint in Malawi; and the establishment or appointment of an agency or a bank shall be on such terms and conditions as may be agreed upon between the Bank and such agency or bank;

(c) arrange for the safe custody of unissued stocks of currency and for the preparation, safe custody and destruction of plates and paper for the printing of notes and dies for the minting of coins.

**19.** Notes and coins issued by the Bank shall be-



- (a) in such denominations or fractions thereof;
- (b) of such forms and designs bearing such devices;
- (c) of such standard weight and composition, and of such an amount of remedy and variation, as shall be approved by the Minister on the recommendation of the Bank.

**20.** The Bank shall have the power to call in any of its notes and coins on giving not less than three months' notice in the *Gazette* and notes and coins shall cease to be legal tender on the expiry of the period for exchange announced at the time of such recall.

**21.** The Bank shall not be required to replace destroyed and mutilated currency, but may do so at its absolute discretion.

**22.** The Bank shall not be liable to the payment of any stamp duties or other taxes in respect of its notes issued as currency.

**23.** -

(1) For the purpose of this section "note" means a note of the Bank, or any note which has at any time been legal tender in Malawi including any other note, by whatever name called, which is legal tender in the country in which it was issued.

(2) Any person who-

- (a) without the authority of the Bank, engraves or makes upon any material whatsoever any words, figures, letters, marks, lines or devices, the print of which resembles in whole or in part any words, figures, marks, lines or devices peculiar to and used in or upon any note;
- (b) without the authority of the Bank, uses or, knowing that it is to be used, for an unlawful purpose, has in his possession any material whatsoever upon which has been engraved or made any such words, figures, letters, marks, lines or devices as are mentioned in paragraph (a); or
- (c) wilfully defaces, soils or damages any note or writes or places any drawing thereon or attaches thereto anything in the nature of an advertisement, or who uses such a note or part of such a note or any device resembling such a note or part of such a note as part of an advertisement without the authority of the Bank, shall be guilty of an offence and liable-
  - (i) in the case of an offence referred to in paragraph (a) or (b), to imprisonment for seven years;
  - (ii) in the case of an offence referred to in paragraph (c), to a fine of K100.

## **PART VII FOREIGN ASSETS**

**24.** The international value of the Malawi currency shall be determined in accordance with the system designed by the Bank in consultation with the Minister, taking into

account Malawi's general economic situation and its competitive position, with a view to ensuring a viable balance of payments position and sustainable economic growth.

**25. -**

(1) The Bank shall manage foreign assets and maintain foreign exchange reserves at a level which is, in the opinion of the Bank, adequate for Malawi's international transactions and such foreign assets shall consist of any or all of the following-

- (a) gold;
- (b) foreign exchange in the form of-
  - (i) deposits with central, correspondent and other banks abroad;
  - (ii) documents and instruments customarily used for the making of payments or transfers in international transactions ;
  - (iii) notes and coins;
- (c) treasury bills issued by the government of any country whose currency is convertible currency; and
- (d) securities issued by the government of any country whose currency is convertible currency.

(2) The Bank may include in its reserves of foreign assets any internationally recognized foreign assets, including-

- (a) the reserve position of Malawi in the International Monetary Fund;
- (b) any readily available international drawing facility; and
- (c) other freely convertible foreign assets.

**26.** Unless otherwise prohibited by any law relating to the control of foreign exchange, the Bank may-

- (a) buy and sell Malawi currency against any convertible currency; and
- (b) at its discretion, buy and sell currency against any currencies eligible for inclusion in the foreign exchange reserves specified in section 25.

**27.** The Bank shall exercise such functions as are necessary in the administration of any law relating to the control of foreign exchange transactions in accordance with such law.

## **PART VIII POWERS AND FUNCTIONS OF THE BANK**

### ***Division I-General Powers and Functions General***

**28.** The Bank may-

- (a) issue demand drafts and effect other kinds of remittances payable at its own offices or at the offices of agencies or correspondents;
- (b) purchase and sell gold;
- (c) open accounts for, and accept deposits from the Government, funds, corporations and institutions controlled by the Government, banks and other

financial institutions in Malawi and act as banker to any such funds, corporations, institutions, banks or other financial institutions;

(d) maintain accounts with central banks and other banks abroad and act as correspondent, bank or agent for any central or other banks or other monetary authority and for any inter- national bank or international monetary authority established under governmental auspices ;

(e) purchase, sell, discount and rediscount domestic bills of exchange and promissory notes arising out of *bona fide* commercial transactions;

(i) purchase, sell, discount and rediscount domestic bills of exchange and promissory notes drawn or issued for the purpose of financing the transportation, marketing or processing of agricultural produce or minerals ;

(g) purchase, sell, discount and rediscount Treasury Bills of the Government forming part of a public issue and maturing within ninety-one days ;

(h) purchase, sell and manage securities of the Government having a definite maturity period;

(i) invest in securities for any amount, and to mature at any time, on behalf of staff funds and superannuation funds and other internal funds of the Bank;

(j) with the approval of the Minister, subscribe, hold and sell shares of any corporation set up with the approval of or under the authority of the Government for the purpose of facilitating economic development:

Provided that the total value of and such holdings of such shares shall not at any time exceed ten per cent of the aggregate amount of the capital and General Reserve Fund of the Bank;

(k) act as intermediary or agent between foreign lending institutions, organizations or governments and borrowing entities in Malawi;

(l) subject to the prior consent of the Minister, lend to any statutory body in such manner and on such terms and conditions as it may deem fit;

(m) purchase and sell external currencies and purchase, sell, discount foreign bills of exchange and foreign treasury bills maturing within one hundred and eighty days ;

(n) purchase and sell government and government guaranteed securities denominated in convertible currency of any country and securities denominated in convertible currencies issued by international financial institutions of which Malawi is a member;

(o) on behalf of Malawi, make payments to, and receive moneys from, the International Monetary Fund and issue, purchase and sell any securities (whether expressed in Malawi currency or external currency and whether or not maturing at a fixed date) occasioned by, or arising from, the membership of Malawi in the International Monetary Fund and the participation of Malawi in the Special Drawing Rights Account thereof;

(p) accept from customers for custody securities and other articles of value;

(q) undertake on behalf of customers and correspondents the purchase, sale, collection and payment of securities;

(r) make arrangements or enter into agreements, subject to the consent of the Minister, with any bank or financial institution in a country outside Malawi, to borrow, on such terms and conditions as it may deem fit, any convertible currency; and

(s) issue promissory notes and other securities as it deems fit for open market operations.

**29.** The Bank may not-

(a) except as expressly authorized by this Act, engage in trade or otherwise have a direct interest in any commercial, agricultural, industrial or any other undertaking, except such interests as the Bank may in any way acquire in the course of the satisfaction of debts due to it, and provided that all such interests so acquired shall be disposed of at the earliest suitable moment;

(b) save as provided for in section 28 (i) and (j), purchase the shares of any corporation or company, including the shares of any bank, or grant loans upon the security of any such shares;

(c) subject to section 40 and section 46, grant unsecured advances or advances secured otherwise than as laid down under those sections:

Provided that in the event of any debts due to the Bank, becoming in the opinion of the Bank endangered, the Bank may secure such debts on any real or other property of the debtor and may acquire such property, which shall be sold at the earliest suitable moment;

(d) purchase, acquire or lease real property except in accordance with the proviso to paragraph (c) and except so far as the Bank shall consider necessary or expedient for the provision, or future provision, of premises for the conduct of its business the residence or amenities of staff or other similar requirements incidental to the performance of its functions under the terms to this Act;

(e) draw or accept bills payable otherwise than on demand;

(f) allow the renewal or substitution of maturing bills of exchange purchased, discounted or rediscounted by or pledged with the Bank save in exceptional circumstances with the explicit approval of the Board;

(g) pay interest on customers' balances except as may be determined by the Board; and

(h) accept for discount, or as security for an advance made by the Bank, bills or notes signed by members of the Board or by the Bank's officials or other employees, except such bills and notes as are signed by a member in his official capacity.

***Division II-Monetary Functions***

**30.** In pursuance of its monetary policy the Bank shall influence the flow of money and credit, and may issue regulations with respect to the level of interest rates and foreign exchange rates.

. For the purpose of influencing the flow of money and credit the Bank may, in accordance with such operational procedure, if any, as the Bank may lay down from time to time, engage in the following credit operations-

(a) rediscount of domestic trade bills and bank drafts resulting from *bona fide* commercial transactions;

(b) rediscount of domestic trade bills and bank drafts drawn for the purpose of financing the transportation, marketing or processing of agricultural produce and minerals; and

(c) rediscount of treasury bills, forming part of a public Government issue and maturing in ninety-one days.

**32.** The Bank shall determine its rediscount and other rates, which shall be made public by displaying such rates at its premises.

**33.** The Bank may prescribe credit ceilings for banks and financial institutions aimed at limiting the availability of credit in the economy.

**34.** To regulate the liquidity in the economy, the Bank may undertake open market operations as part of its monetary policy through the use of the following instruments-

(a) treasury bills issued by the Government under section 28 (g) for maturities of ninety-one days;

(b) treasury bills maturing in ninety-one days issued by the Government under section 40 (5) on request of the Bank against advances granted, in respect of temporary shortfalls of the budget revenue;

(c) treasury bills or other securities mobilized on the request of the Bank against its receivables from the devaluation of the Kwacha in the form of promissory notes issued by the Government under section 40 (5);

(d) treasury bills or other securities converted on request of the Bank under section 40 (5) from the Government's out- standing long-term loans;

(e) promissory notes or such other securities issued by the Bank for its open market operations under section 28 (s).

**35.** The Bank may use the instruments specified in section 34 for monetary purposes and to ensure orderly market conditions. The Bank may conduct its open market operations through out- right sale and purchase or repurchase agreements or other methods.

**36. -**

(1) The Bank may require banks to hold a specific portion, expressed as a percentage, of the liabilities arising from demand, time and savings deposits, as well as from short- and medium-term borrowings, except borrowings from other banks, subject to reserve requirements, as deposits with the Bank.

(2) The percentage for the purposes of subsection (1) shall be set from time to time by the Bank.

(3) The Bank may also require financial institutions to maintain deposits as reserves with it.

**37. -**

(1) The Bank may require banks to maintain a prudential cash reserve as a deposit with it and such deposit may not exceed five per cent of demand liabilities.

(2) The Bank may also require financial institutions to maintain minimum cash reserves.

**38.** Deposits under sections 36 and 37 of this Act shall not carry any interest except as the Bank shall otherwise decide and such decisions shall be an integral part of the Bank's monetary policy.

**39.** The Bank shall act as a banker and adviser to the Government

Provided that the Government may maintain accounts in Malawi with other Banks, and use their services in such cases and on such conditions as may be agreed upon between the Minister and the Bank.

**40. -**

(1) The Bank may make short-term advances to the Government in respect of temporary shortfalls in budget revenues on such terms and conditions as the Bank may determine.

(2) The total amount of advances outstanding at any time made by the Bank under this section shall not exceed twenty per cent of the annual budgeted revenues of the Government as defined in subsection (3).

(3) For the purposes of this section, the annual budgeted revenues of the Government shall be those revenues derived from sources within Malawi as estimated for the Government's financial year in which such advances are made.

(4) All advances made under subsection (1) shall be repaid as soon as possible and, in any event, shall be repayable within four months of the end of the Government's financial year in which they are made, and if after the end of the financial year such advances remain outstanding, the power of the Bank to grant further such advances shall not be exercisable unless and until the outstanding advances have been repaid.

(5) If at any time the Bank has any Government loans and advances outstanding, irrespective of maturity, the Bank may require the Government to issue to it treasury bills or promissory notes and other instruments as the Bank may deem fit for open market policy purposes, and the terms and conditions shall be agreed upon between the Bank and the Minister.

**41. -**

(1) The Bank shall be entrusted with the issue and management of Government securities publicly issued in Malawi upon such terms and conditions as may be agreed upon between the Minister and the Bank.

(2) The Bank may purchase and sell securities of the Government maturing in not more than twenty-five years which have been publicly offered for sale or form part of an issue which is being made to the public at the time of acquisition:

Provided that at any particular date the total amount of such securities of a maturity exceeding two years in the ownership of the Bank (other than securities held in terms of section 28 (i) or held by the Bank as collateral under section 46 (i) (b) or held as a result of its open market operations under section 34 (b)), shall not together at any time exceed twenty per cent or such lower percentage as the Minister, after consulting the Governor, may from time to time determine by order published in the *Gazette*, of the total development budget of the Government for the current fiscal year.

(3) The Bank may upon request of the Government, guarantee the repayment of the principal and the payment of interest and charges of any external borrowing by the Government or by any statutory body and in the case of a statutory body the Bank shall be entitled to request the Government to counter guarantee such borrowing.

**42.** The Bank may generally act as agent of the Government

(a) where it can do so appropriately and consistently with this Act and with its duties and functions as a central bank; and

(b) on such terms and conditions as may be agreed upon between the Minister and the Bank.

**43.** The Minister shall, when contracting any external debt on behalf of the Government, consult the Bank on the terms and conditions of such debt relating to interest, fees and maturity.

***Division IV-Relations with Banks and other Financial Institutions loans***

**44.** The Bank may act as banker to other banks in Malawi.

**45.** The Bank may promote money transfer and clearing systems and provide facilities therefor.

**46.-** (1) The Bank may grant advances to banks or financial Lender to institutions for periods not exceeding three months against banks promissory notes secured by the pledge with the Bank of-

(a) publicly issued treasury bills maturing within ninety-one days;

(b) securities issued by the Government (Local Registered Stock) maturing within twenty-five years ;

(c) other securities which may be declared eligible by the Bank from time to time, with the approval of the Minister;

(d) bills of exchange and promissory notes which are eligible for purchase, discount or rediscount by the Bank; and

(e) warehouse warrants or other documents of title to goods duly insured and with a letter of hypothecation from the owner : Provided that no advance so secured shall at any time exceed-

(i) seventy-five per cent, in the case of those mentioned in subsections (a), (b), (c) and (d); or

(ii) sixty per cent in the case of those mentioned in sub- section (e), of the market value of the security pledged.

(2) Where in the opinion of the Bank there is no established market value for the securities mentioned in subsection (1), the value for the purpose of the proviso to that subsection shall be determined by the Bank.

(3) Notwithstanding the foregoing provisions of this section, the Governor may, with the approval of the Minister, grant advances to banks and financial institutions on the terms and conditions to be determined by the Bank.

**47.** The Bank shall promote close co-operation with the banks and financial institutions in Malawi aimed at-

- (a) maintaining and furthering satisfactory banking services for the public;
- (b) ensuring high standards of conduct and management throughout the financial system; and
- (c) furthering such policies which are in the national interest and which are not inconsistent with this Act.

## **PART IX SUPERVISION OF BANKS AND OTHER FINANCIAL INSTITUTIONS**

**48.-**

(1) The Bank shall supervise banks and other financial institutions to safeguard the liquidity and solvency of such institutions and ensure their compliance with the monetary regulations under this Act.

(2) Banks and other financial institutions shall within the period determined by the Bank and in the format prescribed, submit to the Bank financial and other statements regarding their business and any additional information which the Bank may require.

(3) With respect to the liquidity and solvency and sound management of banks and other financial institutions, the Bank may issue guidelines, regulations and directives, and prescribe prudential ratios to be maintained by certain categories of banks and other financial institutions.

(4) The Bank may appoint inspectors who may at any time investigate the affairs of a bank or other financial institutions at their premises.

**49.** The Bank shall promote the establishment and maintenance of adequate money and capital markets by establishing and monitoring the regulatory framework of such markets for the maintenance of orderly market conditions.

## **PART X ACCOUNTS AND STATEMENTS**

**50.** The financial year of the Bank shall begin on the 1st day of January and end on the 31st day of December.

**51.**

(1) The accounts of the Bank shall be audited by internationally recognized public auditors appointed annually by the Board with the approval of the Minister.



(2) Without prejudice to subsection (1), the Minister may at any time request the Auditor General to make an examination of, and submit a report on, the accounts relating to the issue, reissue, exchange and withdrawal of notes and coins by the Bank or, in what the Minister may consider to be exceptional circumstance, the accounts of the Bank as a whole, and the Auditor General shall do so accordingly and the Bank shall provide all necessary and proper facilities therefor.

**52.-** (1) The Bank shall, as soon as possible from the close of each financial year of the Bank, submit to the Minister-

- (a) a copy of the annual accounts certified by the auditors; and
- (b) a report on its operations during that year which shall be published by the Bank.

(2) The Minister shall as soon as possible-

- (a) cause a copy of the annual accounts and the report to be laid before the National Assembly; and

- (b) cause a copy of the annual accounts to be published in the *Gazette*.

(3) The Bank shall, as soon as possible after the last working day of each month, prepare and publish a return of its assets and liabilities as at the close of business on that day and a copy of the return shall be submitted to the Minister, who shall cause it to be published in the *Gazette* and in such other publications as the Minister may decide.

**53.** The net financial results of the Bank for each financial year shall be determined by the Bank after meeting all current expenditure for that year and making such provision as it thinks fit for bad and doubtful debts, depreciation of assets, pensions, gratuities or other benefits usually provided by bankers for their staff.

**54.-**

(1) The Bank shall establish a General Reserve Fund to which allocations shall be made in accordance with this section.

(2) The profit of the Bank shall be distributed in the following order

- (a) twenty-five per cent or one million Kwacha, whichever is higher, to the General Reserve Fund until it reaches ten per cent of the amount of the currency (bank notes and coins) in circulation as at the end of the respective financial year:

Provided that if the profit is less than one million the whole of it shall be allocated to the General Reserve Fund;

- (b) in the event of a loss incurred by the Bank, such loss shall be deducted from the General Reserve Fund and if the General Reserve Fund is exhausted, the Government shall immediately cover the remaining loss without an appropriation Act being necessary.

(3) With the approval of the Minister further allocations may be made from time to time to the General Reserve Fund.

(4) The remainder of the net profits shall be transferred to the Government:

Provided that in the event of outstanding promissory notes issued by the Government to cover losses from currency devaluation, ten per cent of the net profit or one million Kwacha, whichever is higher, shall be credited to a special account to be used to redeem such outstanding amounts of promissory notes, and if the remainder of the net profits would be less than one million Kwacha the whole of the remainder shall be credited to the special account.

(5) Results from any devaluation or revaluation of the Malawi currency shall be posted directly into a special account without affecting the Bank's profit and loss account and any devaluation losses shall be covered by promissory notes of the Government on such terms and conditions as shall be agreed upon between the Minister and the Bank.

## **PART XI MISCELLANEOUS**

**55.** The Board may, with the approval of the Minister, make by-laws for the administration and management of the Bank. Any such by-laws shall be authenticated by the Bank's seal and shall be published in the *Gazette*.

**56.** The Minister may, after consultation with the Bank, make regulations for the better carrying out of the objectives and purposes of this Act, or to give force or effect to its provisions, or for its better administration.

**57.** The profits of the Bank shall not be liable to income tax or ' - other taxes in Malawi.

**58.** Save with the written consent of the Minister on the recommendation of the Bank, no bank shall hereafter be registered under the provisions of any legislation by a name which includes any of the words "Central", "Malawi", "National", "Reserve" or "State" or their equivalent in any other language or their derivatives.

**59.-**

(1) Except when in performance of his duties, no director, officer or employee of the Bank shall disclose any information relating to the affairs of the Bank or of any bank, financial institution, company or individual which he acquired in the performance of his duties or the exercise of his functions under this Act.

(2) Notwithstanding any disciplinary action that may be taken, any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable to a fine of K5, 000 or to imprisonment for two years.

**60.** The bank shall within the framework of its powers, functions and objectives under this Act, and within the limitations of *its* position as a central bank, promote further development of trade, industry, agriculture, transport, financial and other sectors in Malawi.

**61.** Subject to the express provision of this Act, the Bank may do all such things as are incidental to or consequential upon the exercise of its powers or the discharge of its duties under this Act.

**62.** The Bank may for monetary policy and research purposes require banks, other financial institutions and companies to submit within a reasonable period such information and in such format as may be prescribed by the Bank.

## **PART XII TRANSITIONAL PROVISIONS**

**63.** Notwithstanding the term of office of the Governor or Transitional Deputy Governor prescribed in this Act, a person serving as Governor or Deputy Governor at the commencement of this Act shall continue to serve in accordance with the instrument of his appointment then subsisting and shall be eligible for reappointment under this Act.