



Environment Management Act

No. 23



ARRANGEMENT OF SECTIONS SECTION

An Act to make Provision for the protection and management of the environment and the conservation and sustainable utilization of natural resources and for matters connected therewith and Incidental thereto

ENACTED by the Parliament of Malawi as follows:

I ASSENT,

Dr. Bakili Muluzi

The State President of the Republic of Malawi

Part I

PRELIMINARY

1. [Short title and commencement](#)
2. [Interpretation](#)

Part II

GENERAL PRINCIPLES

3. [National environmental policy](#)
4. [Natural and genetic resources](#)
5. [Right to a decent environment](#)
6. [Role of lead agencies](#)
7. [Inconsistent provisions in other written laws](#)

Part III

ADMINISTRATION

8. [Duties and powers of the Minister](#)
9. [Appointment of Director of Environmental Affairs](#)
10. [Establishment and composition of the National Council for the Environment](#)
11. [Tenure of office and vacancies](#)
12. [Functions of the Council](#)
13. [Proceedings of the Council](#)
14. [Disclosure of interest](#)
15. [Allowances of members of the Council](#)
16. [Technical Committee on the Environment](#)
17. [Functions of the Technical Committee](#)
18. [Proceedings of the Technical Committee](#)
19. [Functions of District Development Committees](#)
20. [District Environmental Officer](#)

Part IV

ENVIRONMENTAL PLANNING

21. [Environmental planning at national level](#)
22. [Purposes and contents of action plan](#)
23. [Planning at district level](#)

Part V**ENVIRONMENTAL IMPACT ASSESSMENT, AUDITS AND MONITORING**

24. [Projects for which an environmental impact assessment is required](#)
25. [Environmental impact assessment reports](#)
26. [Review of environmental impact assessment reports](#)
27. [Environmental audits](#)
28. [Monitoring existing projects](#)
29. [Fees](#)

Part VI**ENVIRONMENTAL QUALITY STANDARDS**

30. [Power to prescribe environmental quality standards](#)

Part VII**ENVIRONMENTAL MANAGEMENT**

31. [Environmental incentives](#)
32. [Environmental protection areas](#)
33. [Environmental protection orders](#)
34. [Enforcement of environmental protection orders](#)
35. [Conservation of biological diversity](#)
36. [Access to genetic resources](#)
37. [Waste management](#)
38. [Licences for waste](#)
39. [Importation and exportation of hazardous waste](#)
40. [Classification of pesticides and hazardous substances](#)
41. [Protection of the ozone layer](#)

Part VIII**POLLUTION CONTROL**

42. [Discharge of pollutants](#)
43. [Licence to discharge effluent, etc.](#)
44. [Prohibition of pollution](#)

Part IX**INSPECTION, ANALYSIS AND RECORDS**

45. [Environmental inspectors](#)
46. [Powers of inspectors](#)
47. [Procedure for taking samples](#)
48. [Establishment or designation of analytical laboratories](#)
49. [Appointment of analysts](#)
50. [Certificate of analysis, etc.](#)
51. [Keeping of records](#)
52. [Public access to information and prohibition of disclosure](#)

Part X**ENVIRONMENTAL FUND**

53. [Establishment of Environmental Fund](#)
54. [Vesting of Fund in the Minister](#)
55. [Advances to the Fund](#)
56. [Objects of the Fund](#)
57. [Application of the Fund](#)
58. [Books and other records of accounts, audit and reports of the Fund](#)
59. [Holdings of the Fund](#)
60. [Financial year](#)

Part XI**OFFENCES**

61. [General offences](#)
62. [Hindering obstructing, etc., of inspectors](#)
63. [Offences relating to environmental impact assessments](#)
64. [Offences relating to records](#)
65. [Offences relating to environmental standards and guidelines](#)
66. [Offences relating to hazardous materials, processes and wastes](#)
67. [Offences relating to pollution](#)

Part XII**LEGAL PROCEEDINGS**

68. [Immunity of officials](#)
69. [Establishment of Environmental Appeals Tribunal](#)
70. [Composition of Tribunal](#)
71. [Failure to attend](#)
72. [Representation of parties](#)
73. [Enforcement orders](#)
74. [Costs](#)
75. [Liability of bodies corporate, etc.](#)

Part XIII**MICESLLANEOUS PROVISIONS**

76. [Closure Of premises](#)
77. [Regulations](#)

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

[I Assent, Bakili Muluzi](#)

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Environment Management Act

No. 23



Part I

PRELIMINARY

Part I

Short title
and
commencement

1.. This Act may be cited as the Environment Management Act, 1996, and shall come into force on such date as the Minister may, by notice published in the Gazette appoint and the Minister may appoint different dates for the coming into force of different parts of this Act

Part I

Interpretation

2.. **In this Act unless the context otherwise requires—**
"ambient air", means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

"analysis" means the examination of any matter, substance or process for the purpose of determining its composition or quality or its effect (whether physical chemical or biological) on any segment of the environment;

"analyst" means an analyst appointed under section 49;

"biological diversity" means the variability among living organisms from all sources including; inter-alia, terrestrial, marine and other aquatic ecological systems and the ecological complexes of which they are part, and includes diversity within or between species and of ecosystems;

"conservation" means the preservation of the natural resources and their protection from misuse, fire or waste;

"Council" means the National Council for the Environment established under section 10 (1);

"dangerous" means harmful or dangerous to public health, plant or animal life or to the environment and "danger" shall be construed accordingly;

"developer" means any person who has proposed or has undertaken to implement a project;

"Director" means the Director of Environmental Affairs appointed under section 9 (1);

"District Development Committee" means the District Development Committee established in every district to initiate, monitor and co-ordinate development policies and activities in

that district;

"effluent" means waste water or other fluid originating from a domestic or an agricultural or industrial activity, whether treated or untreated and whether discharged directly or indirectly into the environment;

"environment" means the physical factors of the surroundings of the human being including land, water, atmosphere, climate, sound, odour, taste, and the biological factors of fauna and flora, and includes the cultural, social and economic aspects of human activity, the natural and the built environment;

"environmental audit" means the systematic documentation and periodic and objective evaluation of the protection and management of the environment and the conservation and sustainable utilization of natural resources;

"Environmental impact assessments" a systematic environment of a project to determine its impact on the environment and the conservation of natural resources;

"environmental impact assessment report" means the environmental impact assessment report required under section 25 (1);

"environmental monitoring" means the continuous or periodic assessment of the actual and potential impact of any activity on the environment;

"environmental planning" means planning that takes into account environmental issues;

"ex-situ" means conservation outside the natural habitat of a biological organism;

"genetic resource" means any genetic material of actual or potential value;

"hazardous substance" means any chemical, waste, gas or gaseous matter, medicines, drugs, plant, animal or micro-organism which is injurious to human health or the environment;

"hazardous waste" means waste which is poisonous, corrosive, noxious, explosive, inflammable, radioactive, toxic or harmful to the environment;

"in-situ" means conservation within the natural ecological system and habitat of a biological organism;

"inspector" means an environmental inspector designated under section 45 (1);

"lead agency" means any public office or organization including every Ministry or Government department which is conferred by any written law with powers and functions for the protection and management of any segment of the environment and the conservation and sustainable utilization of natural resources of Malawi;

"licensing authority" means any person on whom is conferred power under any written law to issue licenses in respect of any thing or activity required under that written law to be done or carried out otherwise than in accordance with a license;

"National Environmental Action Plan" means the national environmental action plan launched by the Government in December 1994, outlining environmental strategies, measures and programmes necessary for promoting the protection and management of the environment and the conservation and sustainable utilization of natural resources;

"natural resources" means the natural resources of Malawi wherever located;

"occupier" means a person in occupation or control of any premises, and, in relation to premises different parts of which are occupied by different persons, Means the person in occupation or control of each such different part;

"oil" includes—

crude oil, diesel oil, fuel oil, lubricating oil, petrol and paraffin, and any other petroleum product capable of causing pollution whether in a solid or liquid form; and any other substance which may be prescribed by the Minister, by notice published in the Gazette, to be oil for the purposes of this Act;

"owner", in relation to any premises, means—

the registered owner of the premises in question;
the lessee or sublease of the premises in question;
the agent, attorney or the personal representative of the owner of the premises;
the person in actual possession of the premises or entitled to receive the rent of the premises, whether on his own account or as agent or trustee of any other person or as receiver;
in relation to any vessel, includes the charterer, pilot or

other person in actual control of the vessel, whether or not the vessel is registered in or outside Malawi;

"ozone layer" means the ozone layer as defined in the Vienna Convention for the Protection of the Ozone Layer; 1985;

"pollutant" means any substance whether in a liquid, solid or gaseous form which directly or indirectly

adversely alters or destroys the quality of the environment;
or
is dangerous or potentially dangerous to public health,
plant or animal life,

and includes objectionable odours, radioactive substances or particles, noise, vibration, or any substance or panicle that causes temperature change or physical, chemical or biological change to the environment;

"pollution" means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of the environment caused by the discharge, emission or deposit of waste or a pollutant into the environment in such amounts and for such duration and under such conditions as to cause an actual or potential danger to the environment;

"premises" includes any land, whether covered by buildings or not, any place underground and any land covered by water and hereditament of any tenure and description;

"project" means a development activity or proposal which has or is likely to have an impact on the environment;

"project brief" means the project brief required under section 24 (2);

"proprietary information" means any proprietary information protected by law or by any international treaty or convention to which Malawi is a party;

"Public Appointments Committee" means the Public Appointments Committee established under section 56 (7) of the Constitution;

"segment" in relation to the environment, means any portion or part of the environment expressed in terms of volume, space, area, quantity, quality or time or any combination thereof;

"sustainable utilization" means the use or exploitation of natural resources which guards against the extinction, depletion

or degradation of any natural resource of Malawi and permits the replenishment of natural resources by natural means or otherwise;

"Technical Committee" means the Technical Committee on the Environment established under section 6;

"Tribunal" means the Environmental Appeals Tribunal established under section 69;

Part I

Cap. 69:01

"vehicle" has the meaning ascribed to it in the Road Traffic Act;

"vessel" includes a ship, boat, floating structure or aircraft;

"waste" includes domestic, commercial or industrial waste whether in a liquid, solid, gaseous or radioactive form which is discharged, emitted or deposited into the environment in such volume, composition or manner as to cause pollution;

"water" includes surface and underground water, drinking water and water in a ever, stream, watercourse, public reservoir, well, dam, canal, channel, lake, swamp or open drain and water in a gaseous or solid form.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

I Assent, Bakili Muluzi

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Environment Management Act

No. 23



Part II

General Principals

Part II

National
Environmental
Policy

3..(1) It shall be the duty of every person to take all necessary and appropriate measures to protect and manage the environment and to conserve natural resources and to promote sustainable utilization of natural resources in accordance with this Act and any other written law relating to the protection and management of the environment or the conservation and sustainable utilization of natural resources.

(2) Without prejudice to the generality of subsection (1), every person required under any written law to exercise power or perform functions relating to the protection and management or the environment or the conservation and the sustainable utilization of natural resources shall take such steps and measures as are necessary for—

- a. promoting a clean environment in Malawi
- b. ensuring the sustainable utilization of the natural resources of Malawi;
- c. facilitating the restoration, maintenance and enhancement of the ecological systems and ecological processes essential for the functioning of Me biosphere, and the preservation of biological diversity;
- d. promoting public awareness and participation in the formulation and implementation of environmental and conservation policies of the Government;
- e. promoting co-operation with foreign governments and international or regional organizations in the protection of the environment and the conservation and sustainable utilization of natural resources;
- f. promoting scientific research, technological development and training relating to die protection and management of the environment or the conservation and sustainable utilization of natural resources

Part II

Natural
and
genetic

4..The natural and genetic resources of Malawi shall constitute an integral part of the natural wealth of the people of Malawi and—

- resources
- a. shall be protected, conserved and managed for the benefit of the people of Malawi; and
 - b. save for domestic purposes, shall not be exploited or utilized without the prior written authority of the Government.

Part II

Right to a decent environment

- 5..(1) Every person shall have a right to a clean and healthy environment.
- (2) For purposes of enforcing the right referred to in subsection (1), any person may bring an action in the High Courts-
- a. to prevent or stop any act or omission which is deleterious or injurious to any segment of the environment or likely to accelerate unsustainable depletion of natural resources;
 - b. to procure any public officer to take measures to prevent or stop any act or omission which is deleterious or injurious to any segment of the environment for which the public officer is responsible under any written law;
 - c. to require that any on-going project or other activity be – subjected to an environmental audit in accordance with this Act
- (3) Any person who has reason to believe that his or her right to a lean or City environment has been violated by any person may, instead of proceeding under subsection (2), file a written complaint to the Minister outlining the nature of his or her complaint and particulars, and the Minister shall, within thirty days from the date of the complaint, institute an investigation into the activity or matter complained about and shall give a written response to the complainant indicating what action the Minister has taken or shall take to restore the claimant's right to a clean and healthy environment, include instructing the Attorney General to take such legal action on behalf of the Government as the Attorney General may deem appropriate,
- (4) Subsection (3) shall not be construed as limiting the right of the complainant to commerce an action under subsection (2):

Provided that an action shall not be commenced before the Minister has responded in writing to the complainant or where the Attorney General has commenced an action in court against any person on the bash of a complaint made to the Minister.

Part II

Role of lead

- 6..Nothing in the Act shall be construed as divesting any lead agency of the powers, functions, duties or responsibilities

agencies conferred or imposed on it by any written law relating to the protection and management of the environment and the conservation and sustainable utilization of natural resources or limiting such powers, functions, duties or responsibilities.

Part II

Inconsistent provisions in other written laws

7..Where a written law on the protection and management of the environment or the conservation and sustainable utilization of natural resources is inconsistent with any provision of this Act, that written law shall be invalid to the extent of the inconsistency.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part III

ADMINISTRATION

Part III

Duties and
powers of
the
Minister

8. (1) It shall be the duty of the Minister to promote the protection and management of the environment and the conservation and sustainable utilization of natural resources, and the Minister shall, in consultation with lead agencies, take such measures as are necessary for achieving the objects in this Act.
- (2) Without prejudice to the generality of the foregoing, the Minister shall—
- a. formulate and implement policies for the protection and management of the environment and the conservation and sustainable utilization of natural resources;
 - b. co-ordinate and monitor all activities concerning the protection and management of the environment and the conservation and sustainable utilization of natural resources;
 - c. prepare plans and develop strategies for the protection and management of the environment and the conservation and sustainable utilization of natural resources, and facilitate cooperation between the Government, local authorities, private sector and the public in the protection and management of the environment and the conservation and sustainable utilization of natural resources;
 - d. initiate, facilitate or commission research and studies on any aspect of the protection and management of the environment and the conservation and sustainable utilization of natural resources;
 - e. prepare and lay before the National Assembly at least once in every year a report on the state of the environment;
 - f. co-ordinate the promotion of public awareness on the protection and management of the environment and the conservation and sustainable utilization of natural resources;
 - g. monitor trends in the utilization of natural resources and the impact of such utilization on any segment of the environment;
 - h. receive and investigate any complaint by any person

relating to the protection and management of the environment and the sustainable utilization of natural resources;

- i. recommend to the Government, on the advice of the Council, international or regional treaties, conventions or agreements relating to the protection and management of the environment and the conservation and sustainable utilization of natural resources to which Malawi should become party;
- j. promote international and regional co-operation in the protection and management of the environment and the conservation and sustainable utilization of natural resources shared between Malawi and other countries;
- k. on the recommendations of the Council, prescribe, by notice published in the Gazette, projects or classes or types of projects, for which environmental impact assessment is necessary under this Act;
- l. on the recommendations of the Council, prescribe, by notice published in the Gazette, environmental quality criteria and standards necessary for the maintenance of essential ecological processes and a healthy environment;
- m. carry out such other activities and take such other measures as may be necessary or expedient for the administration and achievement of the objects of this Act.

(3) In discharging his duties under this section, the Minister shall, where appropriate, consult the Minister responsible for any segment of the environment.

Part III

Appointment of Director of Environmental

9. **(1)** There shall be appointed in the public service a Director of Environmental Affairs (in this Act otherwise referred to as the "Director") and such other suitably qualified public officers as may be required for the proper administration of this Act.

(2) *The Director shall*

- a. carry out the duties and functions provided under this Act and such other duties as the Minister may, from time to time, assign to him;
- b. be responsible to the Minister for the proper discharge of his functions under this Act and for the implementation of such policies relating to the protection and management of the environment and the conservation and sustainable utilization of natural resources as the Minister may determine;

- c. furnish the Council with such information or documents as the Council may require and, from time to time, report to the Council the status of the environment and natural resources.

Part III

Establishment and composition of the National Council for the Environment

10. (1) There is hereby established a council to be known as the National Council for the Environment (in this Act otherwise referred to as the "Council") which shall consist of—
- a. the Chairman of the Council who shall be appointed by the President on the recommendation of the Minister;
 - b. the Secretary to the President and Cabinet, or his representative;
 - c. all Principal Secretaries of Ministries, or their representatives;
 - d. the General Manager of the Malawi Bureau of Standards, or his representative;
 - e. the General Manager of the National Herbarium and Botanical Gardens of Malawi, or his representative;
 - f. one member nominated by the Malawi Chamber of Commerce and Industry representing the industrial sector and appointed by the Minister;
 - g. one member nominated by and representing non governmental organizations concerned with the protection and management of the environment and the conservation of natural resources and appointed by the Minister;
 - h. one representative of the University of Malawi appointed by the Minister;
 - i. one member nominated by and representing the National Commission for Women in Development and appointed by the Minister.

(2) The Vice Chairman of the Council shall be appointed by the Minister from amongst the members of the Council who are not public officers.

(3) The Director shall be the Secretary to the Council.

Part III

Tenure of office and vacancies

11. (1) The Chairman, Vice- Chairman and the members of the Council referred to in section 10 (2) (13 to (i) shall hold office for three years and shall be eligible for re-appointment.
- (2) The Chairman, Vice- Chairman and any member referred to in section 10 (2) (f) to (i) shall cease to be a member of the Council—
- a. if he or she resigns as a member of the Council;
 - b. if he or she ceases to be a member or employee of the

organization that nominated him or her for appointment as a member of the Council;

- c. if, upon conviction of any offense, he or she is sentenced to a term of imprisonment exceeding six months without the option of a fine;
- d. if he or she is of unsound mind; and
- e. in circumstances where the member is compromised to such an extent that his or her ability to impartially exercise the duties of his or her office is seriously in question.

Part III

12. The Council shall—

Functions of the Council

- a. advise the Minister on all matters and issues affecting the protection and management of the environment and the conservation and sustainable utilization of natural resources;
- b. recommend to the Minister measures necessary for the integration of environmental considerations in all aspects of economics planning and development;
- c. recommend to Me Minister measures necessary for the harmonization of activities, plans and policies of lead agencies and non governmental Organizations concerned with the protection and management of Me environment and die conservation and sustainable utilization of natural resources.

Part III

13. (1) Save as is provided in this section, the Council shall regulate its own procedures

Proceedings of the Council

- (2) The Council shall hold at least four ordinate meetings in a year, and such number of extraordinary meetings as may be necessary, at such place or places and at such time or times, as the Chairman my determine
- (3) The Chairman shall convene an extraordinary meeting on his own motion or at the request of one third of the members of the Council within such reasonable period as the chairman shall deem appropriate.
- (4) Half of the members shall form a quorum at a meeting of the Council.
- (5) The Chairman, or in his absence the Vice- Chairman, shall preside at any meeting of the Council and, in the absence of both the Chairman and the Vice Chairman, the members present shall elect amongst their number a chain to preside at the meeting of the Council.
- (6) A decision of the Council on any question shall be by a

majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(7) The Council may invite any person whose presence is in its opinion desirable to attend and participate in the deliberations of the Council but that person shall have no right to vote.

(8) The Council shall cause to be kept minutes of the proceedings of every meeting of Me Council and of every meeting of any committee constituted by the Council.

Part III

Disclosure of interest

14. **(1)** If any person is present at a meeting of the Council or a committee of the Council at which any matter in which that person or his spouse is directly or indirectly interested in a private capacity is the subject of consideration he shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council or committee otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the Mating at which it is made.

Part III

Allowances of members of the Council

15. A member of the Council or committee shall be paid such allowance as the Minister may determine.

Part III

Technical Committee on the Environment

16. **(1)** There is hereby established a committee to be known as the Technical Committee on the Environment (in this Act otherwise referred to as the "Technical Committee") which shall consist of not less than ten members and not more than twenty members each of whom shall have sufficient knowledge and training in the protection and management of the environment and the conservation and sustainable utilization of natural resources.

(2) The members of the Technical Committee shall be appointed by the Minister on the recommendation of the Council and shall serve in a personal capacity for such period, and shall be paid such allowances and remuneration, as the Minister may determine.

(3) A member of the Technical Committee may, by written notice to the Minister, at any time resign his position

Part III

Functions of the


17. The Technical Committee shall—

- a. examine any scientific issue which may be referred to it

**Technical
Committee**

- by the Minister, the Council, the Director or any lead agency relating to the protection and management of the environment and sustainable utilization of natural resources and shall recommend to the Minister, the Council or lead agency, as the case may be, such action as is necessary for achieving the purposes of this Act;
- b. Carry out investigations and conduct studies into the scientific, social and economic aspects of any activity, occurrence, product or substance which may be referred to the Minister, the Council, the Director or any lead agency and shall, at the completion of the investigation or study, recommend to the Minister, the Council or lead agency, as the case may be, such action as is necessary for achieving the objectives of this Act;
 - c. recommend to the Council the criteria, standards and guidelines for environmental control and regulation, including the form and content of environmental impact assessments.

Part III**Proceedings
of the
Technical
Committee**

18.  The Technical Committee shall adopt its own rules of procedure a



Environment Management Act

No. 23



Part IV

ENVIRONMENTAL PLANNING

Part IV

Environmental
Planning at
National Level

21. The Minister shall lay before the National Assembly a copy of the National Environmental Action Plan for approval at its next meeting after the commencement of this Act and the Minister shall thereafter review it every five years subject to approval by die National Assembly.

Part IV

Purposes and
Content of
action plan

22. The purpose of the National Environmental Action Plan shall be to promote and facilitate the integration of strategies and measures for the protection and management of the environment into plans and programmes for die social and economic development of Malawi.

Part IV

Planning at
district level

23. (1) The district environmental action plan prepared under section 19 (a) shall—

- a. be in conformity with the National Environmental Action Plan;
- b. identify environmental problems in Me district in question;
- c. be approved by Me Minister on the recommendation of the Council
- d. be disseminated to the public by the District Development Committee.

(2) No person shall implement a development activity or project in any district otherwise than in accordance with the district environment action plan for the district in question.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part V

ENVIRONMENTAL IMPACT ASSESSMENT AUDIT AND MONITORING

Part V

Projects for which an environmental impact assessment is required

24. (1) The Minister may, on the recommendation of the Council specify, by notice published in the Gazette, the types and sizes of projects which shall not be implemented unless an environmental impact assessment is carried out.

(2) A developer shall, before implementing any project for which an environmental impact assessment is required under subsection (1), submit to the Director, a project brief starting in a concise manner

- a. the description of the project;
- b. the activities that shall be undertaken in the implementation of the project;
- c. the likely impact of those activities on the environment;
- d. the number of people to be employed for purposes of implementing the project;
- e. the segment or segments of the environment likely to be affected in the implementation of the project;
- f. such other matters as the Director may in writing require from the developer or any other person who the Director reasonably believes has information relating to the project.

(3) Where, upon examining the project brief, the Director considers that further information is required to be stated in the project brief before an environmental impact assessment is conducted, the Director shall require the developer, in writing, to provide such further information as the Director shall deem necessary.

Part V

Environmental Impact Assessment reports

25. (1) Where the Director considers that sufficient information has been stated in the project brief under section 24, the Director shall require the developer, in writing, to conduct, in accordance with such guidelines as the Minister may, by notice published in the Gazette prescribe, an environmental impact assessment and to submit to the Director, in respect of such assessment, an environmental impact assessment report giving—

- a. a detailed description of the project and the activities to be undertaken to implement the project;
- b. the description of the segment or segments of the environment likely to be affected by the project and the means for identifying, monitoring, and assessing the environmental effects of the project;
- c. the description of the technology, method or process to be used in the implementation of the project and of any available alternative technology, method or process and the reasons for not employing the alternative technology, method or process;
- d. the reasons for selecting the proposed site of the project as opposed to any other available alternative site;
- e. a detailed description of the likely impact the project may have on the environment and the direct, indirect, cumulative, short-term and long-term effects on the environment of the project;
- f. an identification and description of measures proposed for eliminating, reducing or mitigating any anticipated adverse effects of the project on the environment;
- g. an indication of whether the environment of any other country or of areas beyond the limits of national jurisdiction is or are likely to be affected by the project and the measures to be taken to minimize any damage to Be environment;
- h. an outline of any gaps, deficiencies and the adverse environmental concerns arising from the environmental impact assessment and from the compilation of the environmental impact assessment report;
- i. a concise description of the method used by the developer to compile the information required under this section.

(3) The environmental impact assessment report shall be open for public inspection provided that no person shall be entitled to use any information contained therein for personal benefit except for purposes of civil proceedings brought under this Act or under any written relating to the protection and management of the environment or the conservation or sustainable utilization of natural resources.

Review of
environmental
Impact
Assessment
reports

the Director shall invite written or oral comments from the public thereon, and where necessary may—

- a. conduct public hearings at such place or places as the Director deems necessary for purposes of assessing public opinion thereon;
- b. require the developer to redesign the project or to do such other thing as the Director considers desirable taking into account all the relevant environmental concerns highlighted in the environmental impact assessment report, any comments made by the public and the need to achieve the objectives of this Act;
- c. require the developer to conduct a further environmental impact assessment of the whole project or such part or parts of the project as the Director may deem necessary, or to revise the information compiled in the environmental impact assessment report;
- d. recommend to the Minister to approve the project subject to such conditions as the Director may recommend to the Minister.

(2) In considering whether or not to recommend to the Minister the approval of any project or of any condition, the Director shall take into account any likely impact of the project on the environment and the actual impact of any existing similar project on the environment.

(3) A licensing authority shall not issue any license under any written law with respect to a project for which an environmental impact assessment is required under this Act unless the Director has certified in writing that the project has been approved by the Minister under this Act or that an environmental impact assessment is not required under this Act.

Part V

Environmental
audits

27. **(1)** The Director shall, in consultation with such lead agency as he may consider appropriate, carry out or cause to be carried out periodic environmental audits of any project for purposes of enforcing the provisions of this Act.

(2) For purposes of subsection (1), the Director may require a developer to keep such records and submit to the Director such reports as the Director may deem necessary.

(3) A developer shall take all reasonable measures for mitigating any undesirable effects on the environment arising

from the implementation of a project which could not reasonably be foreseen in the process of conducting an environmental impact assessment and shall-, within a reasonable time, report to the Director such effects and measures.

Part V

Monitoring
existing projects

28. The Director shall take such measures as are necessary for ensuring that the implementation of any project commenced before the coming into force of this Act complies with the provisions of this Act.

Part V

Fees

29. The Minister may, by notice published in the Gazette, prescribe such fees as may be necessary for covering reasonable costs for scrutinizing environmental impact assessment reports and for the subsequent monitoring of a project which has been approved for implementation under this Act.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part VI

ENVIRONMENTAL QUALITY STANDARDS

Part VI

Power to
prescribe
environmental
quality standards

30. (1) The Minister may, on the advice of the Council, prescribe environmental quality standards generally and, in particular, for air, water, soil, noise, vibrations, radiation, effluent and solid waste.

(2) The prescription of the environmental quality standards under subsection (1) shall be based on scientific and environmental principles and shall take into account the practicability and availability of appropriate technology for ensuring compliance with such standards.

(3) The Minister may prescribe different environmental quality standards to apply in different areas of Malawi with respect to different segments of the environment and the Minister may, from time to time, vary such standards.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part VII

ENVIRONMENTAL MANAGEMENT

Part VII

Environmental
Incentives

31. The Minister, on the recommendation of the Council and in consultation with the Minister of Finance, shall determine—
- a. such fiscal incentives as are necessary for promoting the protection and management of the environment and the conservation and sustainable utilization of natural resources; and
 - b. such measures as are necessary for preventing the unsustainable use of natural resources and controlling the generation of pollutants.

Part VII

Power to
prescribe
environmental
quality standards

32. (1) The Minister may, on the recommendation of the Council, declare any area of Malawi, other than an area declared to be a wild reserve, forest reserve, game reserve, national park or monument under any written law, to be an environmental protection area.
- (2) In determining whether or not to declare any area an environmental protection area, the Minister shall have regard to—
- a. representations made by any person who has sufficient interest in the area;
 - b. the natural features and beauty of the area;
 - c. the flora and fauna of the area;
 - d. the unique or special geological, physiographical, ecological or historical and cultural features of the area;
 - e. any special scientific feature or biological diversity of or existing in the area;
 - f. the proneness of the area to any hazards against which the area requires protection;
 - g. the interests of the local communities in or around the area;
 - h. the need for the Government to comply with any international obligation under any treaty, convention or an agreement to which Malawi is party.

(1) The Director shall, in consultation with relevant lead agencies, prepare an environmental protection plan for the protection and management of every environmental protection area, and the environmental protection plan shall—

- a. set out policies for the protection and management of the environmental protection area; and
- b. provide for the development of social amenities and facilities necessary for carrying out scientific research in the environmental protection area.

Part VII

Environmental protection orders

33. **(1)** The Director shall have power to issue environmental protection orders against any Person whose acts or omissions have or are likely to have adverse effects on the protection and management of the environment and the conservation and sustainable utilization of natural resources, and the environmental protection orders shall be in the prescribed form and, if no such form is prescribed, in such form as the Director may determine

(2) Notwithstanding the provisions of any other law to the contrary, the environmental protection order may require the person against whom it is made to—

- a. take such measures as are necessary for the restoration of any land degraded by reason of the activities of the person against whom the environmental protection order is made including the replacement of soil, the replanting of trees and other flora, and the restoration, as far as may be possible, of unique geological, physiographical, ecological or historical features of the land and of waste disposal sites;
- b. stop, prevent or modify any action or conduct which causes or contributes or is likely to cause or contribute to pollution;
- c. remove, at the expense of the person against whom the environmental protection order is made, any waste or refuse deposited by that person, or with his or her knowledge or authority, in a place specified in the environmental protection order and to dispose of the waste or refuse in such manner and place and within such period as may be specified in the environmental protection order;
- d. pay such compensation as may be specified in the environmental protection order to any person whose land

is degraded by the action or conduct of the person against whom the environmental protection order is made.

(3) An environmental protection order issued under subsection (1) shall, in addition to the matters referred to in that subsection, specify—

- a. the activity considered by the Director to be detrimental to the protection and management of the environment and the conservation and sustainable utilization of natural resources;
- b. the particulars of the person or persons against whom it is made;
- c. the period within which anything required to be done by the person against whom it is made shall be done;
- d. the penalties which may be imposed for non-compliance with the environmental protection order; and
- e. such other matters as the Director may consider necessary for the protection and/management of the environment and the conservation and sustainable utilization of natural resources.

(4) The Director shall have power to inspect, at any reasonable time, any activity on/any premises for purposes of determining whether the activity is/ harmful to the environment or the conservation of natural resources or whether to make an environmental protection order under Subsection (1).

(5) For purposes of subsection (4) the Director may enter any premises at any reasonable time to enforce the environmental protection order and the Director shall not be responsible for the consequences of any action reasonably taken by him in good faith under this section.

(6) Subject to subsection (5), any person aggrieved with the environmental protection order may, within thirty days from the date on which it is made, appeal to the Tribunal, and the appellant shall indicate whether the appeal is against the whole environmental protection order or against only a part or parts thereof and, if so, which part or parts.

(7) The Director may delegate the power referred to in subsections (4) and (5) to an inspector or any person duly authorized by him and anything done by that person shall be deemed to be done by the inspector or by the Director and shall be

valid for all purposes.

(8) An environmental protection order shall be served on the person against whom it is made or his agent or legal practitioner.

Part VII

Enforcement of
environmental
protection

34. **(1)** Where a person against whom an environmental protection order is served fails, neglects or refuses to take the action specified in the environmental protection order, the Director shall take such action as he deems appropriate for achieving the purposes for which the environmental protection order is made.

(2) Where the Director has taken action pursuant to subsection (1), the Director shall be entitled to recover in full from the person against whom the environmental protection order is made the expenses reasonably incurred by the Director for taking such action, and if the expenses remain unpaid for a period of more than thirty days from the date of first demand in writing by the Director, the amount in respect of the expenses shall be recoverable by the Government as a civil debt.

Part VII

Conservation
of
biological
diversity

35. **(1)** The Minister may, on the advice of the Council—

- a. identify the components of the biological diversity of Malawi;
- b. determine the component or components of biological diversity which is or are threatened with extinction;
- c. prepare and maintain an inventory of the biological diversity of Malawi;
- d. determine actual and potential threats to the biological diversity of Malawi and devise such measures as are necessary for preventing, removing or mitigating the effect of those threats;
- e. devise measures for the better protection and conservation of rare and endemic species of wild fauna and flora;
- f. develop national strategies, plans and programmes for the conservation of the biological diversity of Malawi;
- g. require in writing any developer, including the Government, to integrate the conservation and sustainable utilization of the biological diversity of Malawi in any project the implementation of which has or is likely to have detrimental effects to the biological diversity of Malawi;
- h. on the recommendation of the Technical Committee,

prohibit or restrict access by any person to or the exportation of any component of the biological diversity of Malawi.

(2) The Minister may, on the advice of the Council and in consultation with the Minister responsible for the matter in question, take such action or measure as is necessary for—

- a. promoting such land use methods as are compatible with the conservation of the biological diversity of Malawi;
- b. the selection and management of environmental protection areas for the conservation of the venous terrestrial and aquatic ecological systems in Malawi;
- c. the establishment and management of buffer zones near environmental protection areas;
- d. the protection of threatened animal and plant species, habitats and ecological systems;
- e. controlling the importation of alien and plant species;
- f. identifying, promoting and integrating traditional knowledge into the conservation and sustainable utilization of the biological diversity of Malawi; and
- g. the establishment and management of germplasm banks, botanical gardens, Locus and animal orphanages and such other similar facilities.

(3) Where the Minister considers it desirable so to do, he may, on the advice of the Council, recommend to the Minister responsible for wildlife, the release of any animal or animal species conserved ex-situ or in-situ into its natural habitat or ecological system.

Part VII

Access to
genetic
resources

36. **(1)** The Minister, on the recommendations of the Council, may, by regulations published in the Gazette, control or restrict access by any person to the genetic resources of Malawi.

(2) Without prejudice to the generality of subsection (1), the regulations may—

- a. prohibit the exportation of germplasm, except in accordance with a license issued by the Minister and subject to such conditions as the Minister may impose;
- b. provide for the sharing of benefits arising from the technological exploitation of germplasm originating from

Malawi between the owner of the technology and the Government;

- c. provide for fees payable in respect of an export license issued under subsection (2) (a) and for a charge payable for accessing germplasm.

Part VII

Waste Management

37. (1) The Minister, on the recommendations of the Council, may, by regulations published in the Gazette, control the management, transportation, treatment and recycling, and safe disposal of waste and for prohibiting littering of public places.

(2) The Minister may recommend to the Minister responsible for local government the promulgation of such rules or the formulation of such measures as are necessary to regulate the collection, transportation and safe disposal of waste by local authorities.

(3) The Minister may, on the recommendation of the Council—

- a. formulate criteria and standards for the classification and analysis of waste and shall, subject to the rules or measures referred to in subsection (2), determine the method or methods for safe disposal of waste;
- b. control the handling, storage, transportation, classification, importation, exportation and destruction of waste;
- c. monitor any waste disposal site and direct the control of any such site if its continued use as a waste disposal site constitutes or is likely to constitute a hazard to the health of the people living in the vicinity of, or to the environment adjacent to, the site.

Part VII

License to Waste

38.(1) No person shall handle, store, transport, classify or destroy waste other than domestic waste, or operate a waste disposal site or plant, or generate waste except in accordance with a license issued under this section.

(2) The Minister may, on the advice of the Council, grant to any person a license to handle, store, transport, classify or destroy any waste, including hazardous waste, or to generate waste or to operate a waste disposal site or plant, subject to such conditions as the Minister may determine.

(3) An application for a license under this section shall be in the prescribed form or, if no such form is prescribed, in such form

as the Minister may determine, and the form shall contain the applicant's full names, postal and physical address and such other particulars as the Minister may require.

(4) Any person who, at the commencement of this Act, is carrying on the business of handling, storing, transporting, classifying, destroying or disposing of waste shall apply for a license under this section within six months from the date of the commencement of this Act.

(5) The Minister may, at anytime, revoke any license issued under this section or vary any condition attached to the license if the activity in respect of which the license is issued constitutes an actual or potential hazard to the environment or natural resources or if the licensee violates any condition endorsed on the license.

(6) The Minister may delegate the power to issue a license under this section to the Director and any thing done by the Director in the exercise of that power shall be valid for all purposes as if it had been done by the Minister.

Part VII

Importation and
exportation
of hazardous
waste
Cap. 18:08

39.(1) Notwithstanding the Control of Goods Act, no person shall import or export any hazardous waste or substance, except under a permit issued by the Minister subject to such conditions as the Minister may determine, and in the case of exportation, the exporter shall before a permit is issued produce to the Minister written confirmation from an appropriate authority of the receiving country that the hazardous waste or substance may be exported to that country.

(2) No person shall transport within Malawi hazardous waste or substances, except under a permit issued by the Minister subject to such conditions as the Minister may impose.

Part VII

Classification
of pesticides
and hazardous
substances

40.(1) The Minister may, in consultation with the Minister responsible for agriculture, make rules for classifying pesticides and hazardous substances, and for determining their toxicity.

(2) Without prejudice to the generality of subsection (1), the rules may make provision—

- a. requiring the registration, labeling and packaging of pesticides and hazardous substances;
- b. for measures for controlling the manufacture, importation and exportation of pesticides and hazardous substances;
- c. for the distribution, storage, handling and transportation

of pesticides and hazardous substances;

- d. for monitoring the impact of pesticides and hazardous substances and their residuary effect on public health, the environment and natural resources'
- e. for restricting or banning pesticides and hazardous substances.

Part VII

Protection of the ozone layer

41. (1) The Director shall carry out national studies on substances, activities and practices that deplete or are likely to deplete the stratospheric ozone layer and other components of the stratosphere, and on the completion of each study, the Director shall submit the report of the study to the Minister.

(2) The Minister may, on the recommendation of the Council, make regulations

- a. restricting or prohibiting the use of any appliance, equipment or any other thing which uses ozone depleting substances;
- b. requiring any person to make, in such manner and in such form as the Minister may determine, regular reports to the Minister on the generation, consumption and importation of ozone depleting substances;
- c. providing for the progressive reduction and eventual elimination of substances that deplete the ozone layer;
- d. providing for the control of activities and practices likely to deplete the ozone layer; and
- e. providing for such as matters as are necessary for protecting the stratospheric ozone layer.

(3) Notwithstanding the provisions of the Control of Goods Act, no person shall import or export any appliance, equipment or any other thing which uses substances that deplete the stratospheric ozone layer except under a license issued by the Minister and subject to such conditions as the Minister may determine.



Environment Management Act

No. 23



Part VIII

POLLUTION CONTROL

Part VIII

Discharge of Pollutants

42. (1) No person shall discharge or emit any pollutant into the environment, except in accordance with this Act.

(2) It shall be the duty of person to prevent the discharge or emission of any pollutant into the environment otherwise than in accordance with this Act and to comply with such general or specific directions of the Minister or Director for preventing, minimizing or cleaning up, removing or disposing of any pollutant discharged or emitted into the environment.

(3) Any person who discharges or emits any pollutant into the environment otherwise than in accordance with this Act may be required by the Minister to clean up, remove or dispose of the pollutant in such manner and within such period as the Minister shall direct.

Part VIII

License to discharge effluent, etc.

43. (1) No person shall discharge effluent or emit any gas or other gaseous substances into the environment except under a license issued by the Minister subject to such conditions as the Minister shall determine.

(2) The Minister may revoke any license issued under this section if the licensee fails to comply with the conditions of the license or any provision of this Part:

Provided that no license shall be revoked without the licensee being given a reasonable opportunity to be heard.

(3) The Minister may, by notice published in the Gazette, prescribe such fees as he shall deem necessary for the monitoring, cleaning up, removing or disposing of pollutants discharged or emitted into the environment.

Part VIII

Prohibition of pollution

44. No person shall pollute or peat or cause any other person to pollute the environment.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part IX

INSPECTION, ANALYSIS AND RECORDS

Part IX

Environmental
Inspectors

45. (1) For purposes of ensuring compliance with the provisions of this Act the Minister may, by notice published in the Gazette, designate such number of public officers as he may consider necessary to be environmental inspectors whose functions shall be to administer, monitor and enforce measures for the protection and management of, and for the prevention and abatement of pollution to, the environment.

(2) Every inspector shall be issued with an identity card, and the identity card shall constitute prima facie evidence that the holder thereof is an inspector duly designated by the Minister under subsection (1).

(3) An inspector shall, on demand by any person affected by the exercise of the powers of the inspectors under this Act, produce for inspection, the identity card referred to in subsection (2).

Part IX

Powers of
Inspectors

46. (1) An inspector may, for the purpose of performing the functions referred to in section 45 (1), enter, at any reasonable time, any premises to examine any activity which the inspector reasonably considers to be detrimental to the environment or natural resources and to collect therefrom samples of any pollutant or other substance for analysis at any laboratory designated by the Minister under section 48.

(2) Upon entering the premises, the inspector may require the owner or occupant or the agent of the owner or occupant of the premises to produce for inspection any book, document or record or copies thereof for retention by the inspector concerning any matter relevant to the administration of this Act.

(3) It shall be the duty of the owner or occupant or the agent of the owner or occupant of the premises to render an inspector reasonable assistance in the performance by the inspector of the functions referred to in section 45 (1).

(4) An inspector may—

- a. inspect and examine any vehicle, in or upon which he has reasonable cause to believe that a pollutant or other article or substance which he believes to be a pollutant is being or has been transported;

- b. order the production of any document pertaining to the transportation of the pollutant or such other article or substance;
- c. collect any sample of the pollutant of any such substance from the vehicle or place where it has been delivered for analysis at a laboratory designated by the Minister under section 48;
- d. request information from any person who has or appears to have custody or control of the pollutant or such other article or substance or the vehicle in which it is or has been transported.

Part IX

Procedure
for taking
samples

47. (1) An inspector shall before collecting from the premises or vehicle a sample of any pollutant or other article or substance which the inspector believes to be a pollutant, inform the owner or occupier of the premises or vehicle or other person in control of the vehicle from which the sample is to be taken of his intention to do so.

(2) The inspector shall place the sample in three separately sealed packages and shall deliver one package each to the Director, to the laboratory at which the sample will be tested or analyzed and to the owner or occupier of the premises or vehicle or other person in control of the vehicle.

(3) Any dispute arising from the manner in which a sample is collected by an inspector or in connection with the results of any laboratory test or analysis of the sample shall be referred by the aggrieved person or the Director, as the case may be, to the Tribunal.

Part IX

Establishment
or designation of
Laboratories

48. The Minister may, by notice published in the Gazette, establish, or where he deems it necessary, designate such laboratories as he thinks fit to be analytical laboratories or reference laboratories at which samples taken under this Act may be tested or analyzed.

Part IX

Appointment
of analysts

49. There shall be appointed in the public service such number of analysts as may be required to carry out such functions and exercise such powers as are necessary for achieving the purposes of this Act.

Part IX

Certificate
of analysis, etc.

50. (1) There shall be issued by every analyst in respect of any test or analysis, a certificate showing the results of the test or analysis.

(2) The certificate shall state the method or methods used in carrying out the test or analysis and shall be signed by the

analyst who earned out the test or analysis.

(3) A certificate issued under this section shall be prima facie evidence of the results of any test or analysis cawed out under this Act.

Part IX



Environment Management Act

No. 23



Part X

ENVIRONMENTAL FUND

Part X

Establishment of Environmental Fund

53. (1) There is hereby established a fund to be known as the Environmental Fund (in this Act otherwise referred to as the "Fund").
- (2) The Fund shall consist of—
- a. such sums as shall be appropriated by Parliament for the purposes of the Fund;
 - b. advances made to the Fund under section 55;
 - c. such sums or other assets as may be received for the poses of the Fund by way of voluntary contributions or donations;
 - d. such sums as are paid by way of fees or other penalties in respect of licenses issued under this Act.

Part X

Vesting of Fund in the Minister

54. The Fund shall be vested in the Minister and, subject to this Act and the Finance and Audit Act, shall be administered in accordance with his directions.

Cap. 37:01

Part X

Advances to the Fund

55. If in any financial year the income of the Fund together with any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Fund, the Minister responsible for finance may make advances to the Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for finance may determine.

Part X

Objects of the Fund

56. The objects for which the Fund is established shall be the protection and management of the environment and the conservation and sustainable utilization of natural resources.

Part X

Application of the Fund

57. Without derogation from the generality of section 56, the Fund, may be applied to—
- a. research and training which is calculated to promote the protection and management of the environment and the

conservation and sustainable utilization of natural resources;

- b. the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objects of the Fund;
- c. the cost of any scheme which the Minister considers to be in the interest of the protection and management of the environment and the conservation and sustainable utilization of natural resources;
- d. meeting any expenses arising from the establishment and maintenance of the Fund; and
- e. any purpose which the Minister considers to be in the interest of the objects of the Fund.

Part X

Books and other records of account

audit and reports of the Fund

Cap. 37:01

58. (1) The Minister shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the Fund in accordance with the Finance and Audit Act.

(2) The accounts of the Fund shall be audited by the Auditor General who shall have all the powers conferred upon him by the Finance and Audit Act

(3) The Minister shall cause to be prepared, as soon as practicable, but not later than six months after the end of the financial year, an annual report on all the financial transaction of the fund.

(4) The report referred to in subsection (3) shall include a balance sheet, an income and expenditure account and the annual report of the Auditor General and shall be laid by the Minister before the National Assembly.

Part X

Holding of the Fund

59. (1) All sums received for the purposes of the Fund shall be paid into a bank account and no amount shall be withdrawn therefrom except by means of cheques signed by such persons as are authorized in that behalf by the Minister.

(2) Any part of the Fund not immediately required for the purposes of the Fund may, on the recommendation of the Council, be invested in such manner as the Minister, after consulting with the Minister responsible for finance, may determine.

Part X

Financial year

60. The financial year of the Fund shall be the period of twelve months commencing on 1st April in one year and ending on the 31st March of the following year:

Provided that the first financial year of the Fund may be a period shorter or longer than twelve months as the Minister shall determine, but in any case not longer than eighteen months.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part XI

OFFENCES

Part XI

General offenses

61. (1) Any person who contravenes any provision of this Act for which no other penal is specifically provided shall be guilty of an offense and liable, upon conviction, to a fine of not less than K10,000 and not more than K500,000 and to imprisonment for five years.

(2) Any person who is convicted of an offense under subsection (1) shall, in addition to the fine provided for in that subsection, be liable to a fine of K5,000 for each day the offense continues to be committed

Part XI

Hindering,
obstructing
etc., of
inspectors

62. Any person whom

- a. hinders or obstructs an inspector in the execution of his or her duties under this Act;
- b. fails to comply with a lawful order or requirement made by an inspector in accordance with this Act;
- c. prevents the Director or an inspector or any person duly authorized by the Director or inspector from gaining entry upon or into any premises which he or she is empowered under this Act to enter;
- d. impersonates the Director or an inspector or any person duly authorized by the Director or inspector;
- e. prevents an inspector from having access to any record or document required by the inspector for purposes of this Act;
- f. misleads or gives false information to the Director or an inspector or any person duly authorized by the Director or inspector under this Act; or
- g. fails to comply with measures directed by the Minister, the Director or an inspector for the protection and management of the environment and the conservation and sustainable utilization of natural resources,

shall be guilty of an offense and shall be liable, upon conviction, to a fine of not less than K5,000 and not exceeding K200,000 and to imprisonment for two years.

Part XI

Offenses
relating to
environmental
impact
assessment

63. Any person who contravenes section 24 (3) or fails to prepare an environmental impact assessment report or knowingly gives false information In an environmental impact assessment report contrary to section 25 shall be guilty of an offense and shall be liable, upon conviction, to a fine of not less than K5,000 and not exceeding K200,000 and to imprisonment for two years.

Part XI

Offenses
relating to
Records

64. Any person whom ---

- a. fails to keep records required under this Act or under any regulations made under this Act;
- b. Fraudulently or knowingly alters any such records,

shall be guilty of an offense and be liable, upon conviction, to a fine of not less than K5,000 and not exceeding K200,000-and to imprisonment for two years.

Part XI

Offenses
relating to
Environmental
standards and
guidelines

65. Any person whom

- a. violates any environmental standard established under this Act;
- b. violates any measure prescribed under this Act; or
- c. uses natural resources other wise than in accordance with this Act,

shall be guilty of an offense and shall be liable upon conviction to a fine of not less than K5,000 and not more than K200,000 and to imprisonment for two years.

Part XI

Offenses
relating to
hazardous
materials
processes, and
Waste

66. Any person who

- a. fails to manage hazardous materials, processes and wastes in accordance win this Act;
- b. knowingly or fraudulently mislabels wastes, pesticides or chemicals;
- c. aids or abets the illegal trafficking in wastes, chemicals.

pesticides or hazardous processes, wastes or substances, shall be guild of an offense and shall upon conviction be liable to a fine of not less than K20,000 and not more than K1,000,000 and to imprisonment for ten years.

Part XI

Offenses
relating to

67. (1) Any person who discharges or emits an' pollutant into the environment otherwise than in accordance with this Act shall be guilty of an offense and shall be liable, upon conviction, to a E

Pollution fine of not less than K20,000 and not more than K1, 000,000
and to imprisonment for ten years.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part XII

LEGAL PROCEEDINGS

Part XII

Immunity of Officials

68. No legal proceeding shall be brought against the Minister, Director, an inspector, an analyst or any other person duly authorized by the Minister, the Director, inspector or analyst to do anything authorized under this Act, in respect of anything done in good faith under the provisions of this Act.

Part XII

Establishment of Environmental Appeals Tribunal

69. There is hereby established an Environmental Appeals Tribunal (in this Act otherwise referred to as Me "Tribunal") which shall

- a. consider appeals against any decision or action of the Minister, Director or inspector under this Act;
- b. consider appeals against the refusal by the Minister or Director to issue a license under this Act;
- c. consider appeals against the revocation by the Minister or Director of a license issued under this Act;
- d. consider appeals against the closure pursuant to this Act of any premises;
- e. consider such other issues relating to the protection and management of the environment and the conservation and sustainable utilization of natural resources as the Minister, the Director or any person may refer to it.

Part XII

Composition of Tribunal

70. (1) The Tribunal shall consist of—

- a. a suitably trained and qualified person appointed by the President, on the recommendation of the Minister, who shall be Chairs; and
- b. two other members appointed by the President, on the recommendation of the Minister, both of whom shall be sufficiently qualified in the protection and management of the environment and the conservation and sustainable utilization of natural resources and the appointment of each member of the Tribunal shall be subject to confirmation by the Public Appointments Committee.

(2) The decisions of the Tribunal shall be by a majority.

(3) The Tribunal shall not be bound by rules of evidence and shall admit as evidence any matter which in its opinion shall assist it to arrive at a just and equitable decision for the

advancement of the purposes of this Act.

(4) The Tribunal shall make its own rules of procedure and shall have power to

- a. summon any person to give evidence in any proceedings before the Tribunal or to produce to the Tribunal any document relevant to the proceedings before it;
- b. confirm, vary, amend or alter a decision made by the Minister, the Director or inspector or reverse or substitute such decision for any decision which is just and equitable and which is in the interest of the protection and management of the environment or the conservation and sustainable utilization of natural resources.

(5) Any person aggrieved with the decision of the Tribunal may appeal to the High Court within thirty days from the date of the decision of the Tribunal.

Part XII

Failure
to Attend

71. If a party fails to attend or to be represented at the proceedings of the Tribunal without good cause, the Tribunal may proceed in the absence of that party or representative.

Part XII

Representation
of Parties

72.(1) A party to any proceedings before the Tribunal may—

- a. appear personally; or
- b. be assisted or represented by a legal practitioner.

Part XII

Enforcement
of orders

73. Any decision or order of the Tribunal shall have the same force and effect as any other decision or order of a competent court and shall be enforceable accordingly.

Part XII

Costs

74. **(1)** Subject to subsection (2), the Tribunal shall not make any order as to costs but nothing in this subsection shall prevent a legal practitioner from agreeing with his or her client the payment of solicitor and own client costs.

(2) The Tribunal may make an order as to costs where a party fails to attend, without good cause, any proceedings of the Tribunal or where the matter is vexatious or frivolous.


Part XII

Liability of
bodies
corporate, etc.

75. **(1)** Where an offense under this Act is committed by a body corporate or a partnership

- a. in the case of the body corporate, every director, manager or seminar officer of the body corporate shall be guilty of the offense; and
- b. in the case of a partnership, every partner shall jointly and

severally be guilty of the offense.

 A person shall not be guilty of an offense under subsection (1), if he proves to the satisfaction of the court that the act constituting the offense was done without his knowledge, consent or connivance and that he did his part to prevent the commission of the offense having regard to all the circumstances of the case.

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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Environment Management Act

No. 23



Part XIII

MISCELLANEOUS

Part XIII

Closure of
premises

76. (1) Where the Director believes, on reasonable grounds, that this Act or any regulations made thereunder, have been contravened, the Director may, subject to subsection (2), order the closure of any premises by means of, or in relation to which the Director reasonably believes the contravention was committed.

(2) The closure of any premises shall cease after the provisions of this Act or any regulations made thereunder have, in the opinion of the Director, been complied with, unless before that time court proceedings have been instituted in respect of the contravention, in which event the premises shall remain closed until the proceedings are finally concluded.

Part XIII

Regulations

77. The Minister may make regulations for the better carrying out of the purposes of this Act.

Passed in Parliament this twenty-eighth day of June,
one thousand, nine hundred and ninety-six.

R L Gondwe
Clerk of Parliament

[Contents](#) | [Part I](#) | [Part II](#) | [Part III](#) | [Part IV](#) | [Part V](#)
[Part VI](#) | [Part VII](#) | [Part VIII](#) | [Part IX](#) | [Part X](#) | [Part XI](#) | [Part XII](#) | [Part XIII](#)

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