

GOVERNMENT NOTICE NO. 82

EXPORT PROCESSING ZONES ACT

(CAP. 39:06)

EXPORT PROCESSING ZONES REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 21 of the Export Processing Zones Act, I, ROY AKUJUWE KACHALE-BANDA, Minister of Industry, in consultation with the Committee, make the following Regulations—

PART I—PRELIMINARY

1. These Regulations may be cited as the Export Processing Zones, Citation Regulations, 2020.
- 2.—(1) Where under the Act or these Regulations a decision of the Committee is required, six (6) members shall form a quorum for any purpose. The Export Processing Zones Appraisal Committee
 (2) Any communication from the Committee shall be under the hand of the Chairperson of the Export Processing Zones Committee, hereinafter referred to as the “Chairperson”.
- 3.—(1) A company duly registered under the laws of Malawi may, on payment of the prescribed fee, apply for an Export Processing Zone Certificate using Form EPZ 1 in the First Schedule hereto. Application for Export Processing Zones Certificate
 (2) An application under subregulation (1) shall be accompanied by—
 - (a) evidence of the payment of the prescribed application fee;
 - (b) a Certificate of Incorporation or Registration;
 - (c) a business plan;
 - (d) proof of title to the land on which the export enterprise shall carry out the business such as a deed, lease or such other document;
 - (e) five year financial and production projections; and
 - (f) an Environmental Impact Assessment report, where applicable.
- 4.—(1) The Minister shall, on the recommendation of the Committee, Issue of a Certificate accept or reject an application for an Export Processing Zone Certificate.
 (2) The Committee in making any recommendation to the Minister shall give priority to promoting the export of non-traditional value added products in compliance with the National Export Strategy and consistent with the Act.
 (3) Where the Minister approves the application of an export enterprise, he shall issue an Export Processing Zone Certificate to the enterprise in the format contained in Form EPZ 2 the First Schedule hereto.

(4) Where the Committee recommends to the Minister to reject an application, the Committee shall furnish the Minister with reasons for the recommendation of the rejection in writing.

(5) An export enterprise that contravenes any condition stipulated in its certificate commits an offence and shall be liable to pay a penalty of five percent (5%) of the annual turnover:

Provided that the penalty shall not exceed of twenty million Kwacha (K20,000,000.00).

Calculation of time

5. For the purposes of calculating the time within which anything needs to be done under the Act by the Minister, such time shall start running from the date of receipt by the Chairperson of the relevant application.

PART II- EXPORT PROCESSING ZONES ACTIVITIES

Failure to commence

6.—(1) The Minister shall revoke a certificate of an export enterprise, where the export enterprise fails to commence its operations within twelve (12) months or during such an extension as the Minister, on the recommendation of the Committee, may grant.

(2) The Minister, before revoking a certificate of an enterprise under subregulation (1) shall give the enterprise an opportunity to be heard in accordance with regulations 11 to 15.

Monitoring of export enterprises

7.—(1) An export enterprise shall prepare and submit a report to the Committee, on a quarterly basis, within thirty (30) days after the end of each quarter, specifying—

(a) total production and turnover;

(b) total exports, including evidence thereof such as any CD 1 Form under the Customs and Excise Act;

(c) evidence of exports proceeds certified by an authorized dealer bank;

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(d) under the Exchange Control Act;

(e) evidence of any sales made locally not exceeding twenty percent (20%) of total production; and

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(f) evidence of any taxes payable on equivalent goods produced for local sale.

(2) Where the export enterprise fails to submit any information in compliance with subregulation (1), the export enterprise shall submit an explanation to the Committee giving reasons for the failure.

(3) An export enterprise which fails to comply with subregulations (1) and (2) commits an offence shall be liable to a penalty of three percent (3%) of its annual turnover:

Provided that the penalty shall not exceed twenty million Kwacha (K20,000,000.00).

8.—(1) An export enterprise may sale any part of its production within Malawi if— Local sales
by an export
enterprise

(a) the sales shall not, in aggregate, exceed twenty percent (20%), whole or in parts; and

(b) shall pay any taxes that otherwise would be payable on comparable goods so produced within Malawi.

(2) The export enterprise shall notify the Chairperson, in writing, at least thirty (30) days before the sale and shall include in the notice, how it shall meet tax obligations arising therefrom

9. An export enterprise shall prepare and keep proper books of accounts and records in conformity with generally accepted accounting practices in Malawi as provided for under the Companies Act. Accounting
records
CAP. 46:01

PART III - RENEWAL, AMENDMENT, SUSPENSION AND REVOCATION OF EXPORT PROCESSING ZONES CERTIFICATES

10.—(1) An export enterprise may apply to the Committee to amend or renew its certificate using Form EPZ 3 in the First Schedule hereto. Renewal and
amendment

(2) The Committee shall recommend to the Minister, whether to approve or reject the application for either amendment or renewal of an export enterprise within thirty (30) days from the date the Committee received the application.

(3) Where the Committee recommends to the Minister to reject an application, the Committee shall furnish the Minister with written reasons of their recommendation.

(4) The Minister shall, within fifteen (15) days, accept or reject the recommendation made by the Committee:

Provided that where the Minister rejects the recommendation of the committee, the Minister shall give reasons of the rejection in writing reasons therefor.

(5) The Committee shall notify the export enterprise of the decision of the Minister in writing and shall send the notification to the registered address of the export enterprise.

11.—(1) Where the Minister decides not to renew, to suspend or to revoke a certificate, as the case may be, the notice to the export enterprise shall— Refusal to
renew,
suspend or
revoke

(a) set out the reasons for the decision of the Minister and the date and time on which it shall take effect; and

(b) with respect to suspension, set out the circumstances under which the suspension may be lifted.

(2) The export enterprise shall have thirty (30) days within which to make any representations regarding the decision of the Minister.

(3) The notice of—

(a) amendment or renewal of a certificate shall be in the format contained in Form EPZ 3 in the Second Schedule hereto; and

(b) revocation of certificate shall be in the format contained in Form EPZ 4 in the Second Schedule hereto.

PART IV - MISCELLANEOUS PROVISIONS

- Notice of hearing **12.** The Chairperson shall, twenty one (21) days before the date of a hearing, send a written notice to an export enterprise specifying the date, time and place for the hearing.
- Power to order particulars **13.** The Chairperson may at any time, order an export enterprise to furnish the Committee with any information which appears to him to be necessary for the hearing, within such time as the Chairperson may specify but in any case not less than seven (7) days.
- Admission to a hearing **14.—**(1) Subject to the provisions of this regulation, a hearing shall be held in public.
- (2) The Chairperson may direct that the whole or any part of a hearing be held in private, if he is satisfied of—
- (a) the likelihood of disclosure of confidential financial information;
- (b) the likelihood of disclosure of commercially-sensitive information or information obtained in confidence; or
- (c) exceptional and justifiable circumstances other than those specified in subparagraphs (a) or (b).
- (3) Where the hearing is held in private, the Chairperson may admit such persons as he considers necessary.
- (4) Subregulation (2) shall not apply to a member of the Committee.
- Appearance at hearing **15.** An export enterprise invited for a hearing may appear in person or may be represented by any person appointed by the export enterprise for that purpose.
- Procedure at hearing **16.—**(1) Except as otherwise provided in these Regulations, the Chairperson shall determine the procedure of the hearing.
- (2) During the hearing, an export enterprise shall be entitled to give evidence, call witnesses, ask the Chairperson questions relating to the evidence presented against him and address the Chairperson, generally, including on the proposal to impose a penalty.
- (3) The Chairperson, may from time to time, adjourn the hearing on reasonable grounds:
- Provided that for a particular hearing, the adjournments shall not exceed three (3) times.

17.—(1) Any penalty imposed at the determination of a hearing shall be payable within the seven (7) days from the date the decision was made. Imposition of a penalty

(2) Where a penalty imposed by the Committee remains unpaid thirty (30) days after the period referred to in subregulation (1), the penalty may be collected as a civil debt and shall be subject to interest at the Reserve Bank Base Lending Rate.

18.—(1) Any person who—

Offences and penalties

(a) furnishes information which to his knowledge is false in a material particular or fails to furnish any information required under the Act or these Regulations; or

(b) recklessly makes any statement or furnishes any document or information which is false in a material particular,

commits an offence and shall be liable to an administrative penalty not exceeding two percent (2%) of its annual turnover:

Provided that penalty shall not exceed twenty million Kwacha (K20,000,000.00).

(2) The Minister shall revoke a certificate granted to an export enterprise if the export enterprise made a false statement or furnished a false document or information during the application of the certificate.

19.—(1) An export enterprise shall pay the application prescribed contained in the Second Schedule hereto. Fees

(2) The Export Processing Zones (Fees and Forms) Regulations are revoked.

FIRST SCHEDULE

(reg. 3(1))

FORMS

FORM EPZ 1

EXPORT PROCESSING ZONES ACT

(CAP. 39 :06)

APPLICATION FOR AN EXPORT ENTERPRISE CERTIFICATE

TO: The Chairperson of the Export Processing Zones Appraisal Committee
P O Box 30366
Lilongwe 3
Malawi

COMPANY PROFILE

- 1. Name of the Company
- Date and Number of Certificate of Incorporation/Registration

- 2. The Registered Office of the Company
- Postal Address:
-
- Plot No. Street/Road
- Telephone..... Fax Telex
- District Region

- 3. Date of Incorporation of the Company (attach copy of certificate of incorporation)

Note: This application is intended to collect sufficient information for the purpose of enabling the Committee to make an appropriate recommendation to the Minister. All information collected shall be treated in the strictest confidence. This application should be submitted in duplicate to the address above.

12. Proposed Training of Malawians:

<i>Category</i>	<i>Number of Staff to be Trained</i>	<i>Duration of Training (months per person)</i>
Technical supervision

Skilled production

Semi-skilled production

Managerial

13. Fixed Capital Investment:

<i>Item</i>	<i>Year 0</i>	<i>Year 1</i>	<i>Year 2</i>	<i>Year 3</i>	<i>Year 4</i>	<i>Year 5</i>
Land preparation						
Building						
Machinery						
Other equipment						
Tools, fixtures						
Furniture						
Other (specify)						

14. Finance Requirements—

Particulars of the capital structure—

(a) Issued and paid up capital—

Resident	Amount K.....
Non-resident	US\$.....

(b) Loans—

	Amount	Country of Lender
(i)
(ii)
(iii)
(iv)
(v)

15. List of technological and management agreements

Please give a brief statement on each—

- (a)
- (b)
- (c)
- (d)
- (e)
- (f)

16. Expected Date of Commencement

17. Please Attach—

- (a) A Certificate of Incorporation;
- (b) A Business Plan;
- (c) Proof of Title to the Land on which the Export Enterprise shall carry out the Business; and
- (d) Environmental Impact Assessment Report, if applicable.

18. Additional Information:

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DECLARATION

I, declare that the information given above is correct to the best of my knowledge and belief, I further declare that I have not previously submitted any application in respect of the same project. I understand that any false information may result in a penalty and revocation of any certificate granted.

Date:

.....
(Signature of Applicant)

.....
Minister of Industry

FORM EPZ 2

(reg. 4(1))

EXPORT PROCESSING ZONES ACT

(CAP. 39:06)

EXPORT PROCESSING ZONE ENTERPRISE CERTIFICATE

Certificate No. issued at under section 10 of the Export Processing Zones Act.

This is to certify that has been granted authority to operate an export enterprise for a period of years at the location specified hereunder—

- (a) Name of Business
- (b) Business Enterprise
- (c) Products
- (d) Percentage of Local Sales
- (e) Location Plot/Deed No. District
- (f) Production Date

This certificate is granted on conditions that the Company shall engage solely in the export activity listed above.

Dated this day of, 2020.

(Official Stamp)

.....
Minister of Industry

FORM EPZ 3
EXPORT PROCESSING ZONES ACT
(CAP. 39:06)

(reg. 10)

EXPORT ENTERPRISE CERTIFICATE (AMENDMENT OR RENEWAL)

Certificate No. issued at under section 10 of the Export Processing Zones Act.

This is to certify that the Certificate issued on the has been amended/renewed* as follows—

- 1.
- 2.
- 3.

This amendment/renewal* is granted on conditions that the Export Enterprise shall engage solely in accordance with conditions in Certificate Number.....

Dated thisday of, 2020.

(Official Stamp)

.....
Minister of Industry

*Delete what is not applicable

EPZ 4

(reg. 10)

EXPORT PROCESSING ZONES ACT

(CAP. 39:06)

REVOCATION OF CERTIFICATE

Certificate Number has been revoked with effect
from

For the following reason(s):

.....
.....

Dated this day of, 2020.

(Official Stamp)

.....
Minister of Industry

SECOND SCHEDULE

(reg. 19(1))

FEES

MATTER			K	t
Application for an Export Processing Zone Certificate	..	..	50	000 00
Issuance of an Export Processing Zone Certificate	..	..	500	000 00
Application for Amendment or Renewal	..	..	50	000 00
Issuance of Renewal of an Export Processing Zone Certificate	..	..	200	000 00

Made this 4th day of September, 2020.

R. A. KACHALE-BANDA

(FILE NO: D30:06)

Minister of Industry

GOVERNMENT NOTICE No. 83

MARRIAGE, DIVORCE AND FAMILY RELATIONS ACT

(CAP. 25:01)

Notice of Places of Public Worship for The Celebration of Marriages

IN EXERCISE of powers conferred by section 11 of the Marriage, Divorce and Family Relations Act, I, TITUS EDWARD SONGISO MVALO, Minister of Justice, do hereby licence The Ahlus Sunna Foundation Mosque in the City of Lilongwe a place of public worship for the celebration of Islamic marriages under the Marriage, Divorce and Family Relations Act.

GIVEN under my hand this 25th day of September, 2020.

T. E. S. MVALO
Minister of Justice

(FILE NO. SUB. D. 25:01)