

Malawi

General Amnesty Act

Chapter 14:05

Legislation as at 31 December 2014

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General Amnesty Act

Chapter 14:05

Commenced on 15 July 1993

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to grant general amnesty to citizens of Malawi resident in 16 of 1993 or outside Malawi, in respect of certain activities of a political nature whether or not constituting offences under the Laws of Malawi and for matters incidental thereto and connected therewith

Part I – Preliminary

1. Short title

This Act may be cited as the General Amnesty Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**act**” in relation to any act to which this Act applies includes a statement or a publication made in any form;

[26 of 1993]

“**Committee**” means the Returnees Committee established under [section 7](#);

[26 of 1993]

“**returnee**” means a citizen of Malawi coming or returning to Malawi, to permanently reside in Malawi, under amnesty granted under this Act.

[26 of 1993]

Part II – General amnesty

3. General amnesty

(1) Any person, being a citizen of Malawi resident in or outside Malawi, whether in political exile or otherwise, who, at any time before the commencement of this Act, within or outside Malawi, severally or jointly with others, committed or did, or was privy to the commission or doing of any act, being an act to which this Act applies as specified in [section 4](#), is hereby granted general amnesty and shall not be liable—

- (a) to be prosecuted for an offence constituted by such act, or
- (b) to be detained under a detention order or arrested pending a detention order under the Preservation of Public Security Act.

[Cap. 14:02]

- (2) A person who at the commencement of this Act is being held in police custody or in a prison in Malawi otherwise than for an offence under any written law or other lawful ground shall be deemed to be so held for an act to which this Act applies and is hereby granted amnesty and shall be released from such custody without further procedure.

4. Acts to which this Act applies

This Act shall apply in respect of any act, whether or not constituting an offence under any written law, committed or done—

- (a) for purposes of—
 - (i) promoting or furthering the objective or the interests of any political party, pressure group or movement however called or described; or
 - (ii) promoting or furthering any objective whatsoever for the purpose of advocating change to, or reform of, the form of government, or the mode of governance, of the Republic;
- (b) in pursuit of religious or political convictions.

5. Discontinuance of proceedings, release from custody and remission of imprisonment

- (1) Any proceedings pending before any court against any person in respect of any act to which this Act applies shall, without further procedure, be discontinued.
- (2) Any person who at the commencement of this Act is under arrest for an offence constituted by an act to which this Act applies, whether or not court proceedings in respect thereof have commenced, shall forthwith be released without further procedure.
- (3) Any person who at the commencement of this Act is serving a term of imprisonment in respect of an offence constituted by an act to which this Act applies, is hereby granted a remission of the remainder of his sentence.

6. Validity of convictions

Nothing in this Act shall affect the validity of the conviction of any person by a court before the commencement of this Act of an offence constituted by an act to which this Act applies, but so however, that such conviction shall—

- (a) henceforth cease to have effect, or to count as a previous conviction for purposes of any prosecution of such person for any offence;
- (b) not operate as a bar or an incapacity for such person to hold any office or to enter into any contractual, fiduciary or other relationship with another person nor operate against him as any incapacity whatsoever.

Part III – Returnees

7. Establishment of the Returnee Committee

- (1) There is hereby established a committee to be known as the Returnees Committee (in this Act referred to as the “Committee”) which shall consist of the following members—
 - (a) the Commissioner for Disaster Preparedness and Relief, or his designated representative who shall be the Chairman of the Committee;
 - (b) The Secretary for Women and Children Affairs and Community Services, or his designated representative who shall be the Vice-Chairman of the Committee;
 - (c) the Secretary for Education, or his designated representative;

- (d) the Secretary for External Affairs, or his designated representative;
 - (e) the Attorney General, or his designated representative;
 - (f) the Secretary for Treasury, or his designated representative;
 - (g) the Secretary for Health, or his designated representative;
 - (h) the Secretary for Home Affairs, or his designated representative;
 - (i) the Secretary for Labour, or his designated representative;
 - (j) each of the Regional Administrators in the Office of the President and Cabinet, or their designated representatives;
 - (k) the Controller of Immigration Services, or his designated representative;
 - (l) the Controller of Customs and Excise, or his designated representative;
 - (m) the Executive Secretary of the Malawi Red Cross Society, or his designated representative;
 - (n) the Executive Secretary of the Council for Non-Governmental Organizations of Malawi, or his designated representative;
 - (o) three persons nominated by the National Consultative Council, (a body established by the National Consultative Council Act, 1993), and appointed by the Minister; and
 - (p) such number of Chiefs as the Minister may appoint.
- (2) The Representative of the United Nations High Commissioner for Refugees, or his designated representative or, in his absence, a representative of the Resident Representative of the United Nations Development Programme in Malawi shall be invited by the Committee to attend every meeting of the Committee as an observer and shall be entitled to participate in the deliberations of the meeting, but shall not have the right to vote.

8. Secretariat

The Commissioner for Disaster Preparedness and Relief shall designate an officer or officers in his office to serve as Secretariat to the Committee.

9. Functions of the Committee

The Committee shall—

- (a) establish and examine arrangements for the return, reception, resettlement and, as necessary, rehabilitation of returnees; and
- (b) seek financial and material assistance from internal and external sources, including any government, non-governmental organization, international agencies and individual persons as the Committee considers is required in providing assistance to the returnees.

10. Meetings of the Committee

- (1) The Committee shall meet at such times and places as the Chairman shall determine.
- (2) The quorum at meetings of the Committee shall be formed by a single majority of the members.
- (3) The Chairman or, in his absence, the Vice-Chairman of the Committee shall preside over meetings of the Committee, but in the absence of both the Chairman or the Vice-Chairman the members present and forming a quorum shall elect one of their number to preside over the meeting.
- (4) Save as otherwise provided in this section the Committee shall have power to determine its own procedure.

11. Funds of the Committee

- (1) The funds of the Committee shall consist of—
 - (a) such sums as may be payable to the Committee from moneys appropriated by Parliament;
 - (b) such sums as may be received by the Committee by way of donations or gifts.
- (2) The funds of the Committee shall be held in such bank account as the Minister of Finance shall approve and such bank account shall be kept and maintained in accordance with the standing instructions of the Minister of Finance.

12. Questions as to who is a returnee

Any question as to whether or not a person is a returnee within the meaning of this Act shall be determined by the Committee.

13. Duration of the mandate of the Committee

The Committee shall cease to function twelve months after the commencement of this part:

Provided that the Minister may, by notice published in the *Gazette*, from time to time extend the period by not more than twelve months at a time.

Part IV – General**14. Regulations**

The Minister may make regulations for giving effect to the provisions of this Act.