

Malawi

Businesses Licensing Act

Chapter 46:01

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Malawi

Businesses Licensing Act

Chapter 46:01

Commenced on 27 May 2013

[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 provide for licensing of the sale of goods and services by way of business; to provide for establishment of Business Licensing Centres; and to make provision for matters connected therewith or incidental thereto

Part I – Preliminary

1. Short title

This Act may be cited as the Businesses Licensing Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**auxiliary business**” means any business not specified in a business registration which may be lawfully carried on under such registration;

“**business**” means any form of trade, commerce, craftsmanship or specified profession carried on for profit and to which this Act applies;

“**Business Licence**” means a licence issued under [section 16](#);

“**Business Licensing Centre**” means an organ of a Local Authority responsible for administration of this Act in a Local Government area, established under [section 7](#) or a public agency appointed under this Act;

“**Business Licensing Officer**” means an officer appointed under [section 9](#);

“**Chief Business Licensing Officer**” means a public officer designated as such under [section 4](#) (1);

“**company**” means a company incorporated under the Companies Act;

[Cap. 46:03]

“**core activity**” means the main activity of a business;

“**inspector**” means a person appointed by the Minister under [section 31](#) and includes an officer in the Ministry;

“**Local Authority**” means a City, Town, District or Municipal Council established under the Local Government Act;

[Cap. 22:01]

“**Malawi Investment and Trade Centre**” means the Malawi Investment and Trade Centre incorporated under the Companies Act on 2nd December 2010;

[Cap. 46:03]

“**publication**” means publication of information relating to Business Licensing Centres in electronic form or through printed material to all Ministries and to the general public;

“**regulated business**” means a business regulated by any written law; and

“**the Ministry**” means the Ministry responsible for trade.

Part II – Administration

3. Responsibilities of the Minister

- (1) The Minister shall be responsible for—
 - (a) formulating a national policy and regulatory framework in relation to the business licensing system;
 - (b) providing the necessary technical support or assistance to local authorities for the implementation of their respective functions; and
 - (c) doing such other things as are incidental or necessary to reducing the cost of doing business in Malawi.
- (2) The Minister, in consultation with the Minister responsible for Local Government, may, by notice published in the *Gazette*, revoke the authority of any Local Authority as a Business Licensing Centre and designate another Local Authority or a public agency in its place.

4. Functions of the Chief Business Licensing Officer

- (1) The Principal Secretary responsible for trade is hereby designated as the Chief Business Licensing Officer.
- (2) The functions and powers of the Chief Business Licensing Officer shall be to—
 - (a) coordinate and monitor the performance of Business Licensing Centres for compliance with national policies, guidelines and standards;
 - (b) receive quarterly updated registers of licensed businesses from each Business Licensing Centre;
 - (c) establish and maintain in the Ministry one composite register of all businesses licensed under this Act;
 - (d) publish the composite registers of all Business Licensing Centres within three months after the end of each quarter;
 - (e) ensure that each Business Licensing Centre maintains minimum acceptable standards of licensing in its jurisdiction;
 - (f) act as a licensing authority for any local government area if the Minister exercises his powers under [section 3](#) (2) until another Local Authority or public agency is designated in its place;
 - (g) supervise and issue general or special instructions to Business Licensing Officers in exercise of their functions under this Act;
 - (h) cooperate with the Malawi Investment and Trade Centre in carrying out its functions under the Investment and Export Promotion Act;
 - (i) do all such acts and things as are necessary, incidental or conducive to the better carrying out of his functions under this Act.

5. Main registry of Business Licences

- (1) There is hereby established within the Ministry, a main registry which shall consist of the registries of all of the Business Licensing Centres.
- (2) The Chief Business Licensing Officer shall ensure that the main registry is kept and maintained using modern technology and skills and in accordance with prevailing international best practices.

6. Reports and financial statements

- (1) The Chief Business Licensing Officer shall, as soon as practicable, but not later than three months after the expiry of each financial year, submit to the Minister a report concerning his activities during that financial year.
- (2) The report referred to in subsection (1) shall be in such form as the Minister shall approve, and shall include such information as the Minister may direct or as the Chief Business Licensing Officer may consider appropriate.
- (3) The Minister shall, during the next National Assembly meeting, lay the report referred to in subsection (1) before the National Assembly, and the Chief Business Licensing Officer shall thereafter publish the report for sale to the public.

Part III – Business Licensing Centres

7. Establishment of Business Licensing Centres

- (1) There shall be established in each Local Authority, a Business Licensing Centre which shall be an organ of the Local Authority.
- (2) Notwithstanding subsection (1), the Minister may, in consultation with the Minister responsible for Local Government, constitute any other public agency as a Business Licensing Centre for one or more Local Government areas.

8. Functions of Business Licensing Centres

The functions of a Business Licensing Centre shall be to—

- (a) collect business information in the area of its jurisdiction for the purpose of public consumption;
- (b) ensure that all the business information collected is available for the purpose of keeping public records;
- (c) inform the Ministry and the Ministry responsible for local government of businesses licensed in the area under its jurisdiction;
- (d) provide information and guidance to members of the public on the manner in, and the extent to which, businesses are to comply with legislation applicable to them; and
- (e) provide a registry of information on all businesses operating within the area of its jurisdiction and ensure accessibility of such information to all branches and agencies of the Government and to all businesses.

9. Appointment and functions of Business Licensing Officers

- (1) The Minister shall, after consultation with the Minister responsible for Local Government, appoint any public officer as a Business Licensing Officer in respect of one or more local authorities.
- (2) The Minister may appoint any public officer as a Business Licensing Officer in respect of any public agency designated as a Business Licensing Centre.

- (3) The functions and powers of a Business Licensing Officer shall be to—
- (a) license all businesses in the area of his jurisdiction;
 - (b) establish a register to be managed and maintained by the Business Licensing Centre;
 - (c) submit to the Chief Business Licensing Officer quarterly reports within one month after the end of each quarter;
 - (d) publish the current register of all businesses licensed in the area of his jurisdiction;
 - (e) cancel, revoke or amend any Business Licence as provided for under this Act;
 - (f) collect fees payable under this Act;
 - (g) cooperate with the Malawi Investment and Trade Centre in carrying out its functions under the Investment and Export Promotion Act;
 - (h) advise, free of charge, investors and members of the general public on any aspect of business licensing; and
 - (i) do all such acts and things as are necessary, incidental or conducive to the better carrying of his functions under this Act.

10. Registry of Business Licences

- (1) Every Business Licensing Officer shall establish a registry to be managed and maintained by the Business Licensing Centre under his authority.
- (2) The Minister shall ensure that every registry established under subsection (1) is kept and maintained using modern technology and skills and in accordance with prevailing international best practices.

11. Correction of errors in registers

The following provisions shall apply to errors in any register managed and maintained under this Act—

- (a) no alteration in any register shall be made except as authorised by this Act;
- (b) any clerical error which may from time to time be discovered in any register, may be corrected by any person authorised by the Business Licensing Officer; and
- (c) any error of fact or substance in any such register may be corrected by the Business Licensing Officer making an additional entry in the register without any alteration of the original entry, upon payment of the prescribed fee and upon production to him by the person requiring the error to be corrected, a statutory declaration setting forth the nature of the error and the true facts of the case, made by two credible persons having knowledge of the truth of the case.

Part IV – Licensing of business activities

12. Regulated and unregulated businesses

- (1) Subject to this Act, no person shall conduct a regulated or unregulated business in Malawi without obtaining a Business Licence, or otherwise than in accordance with the Business Licence.
- (2) The owner, manager or person in charge of a regulated business who wishes to have his business licensed under this Act shall—
 - (a) produce to the Business Licensing Officer evidence of compliance with the relevant regulatory statute; and

- (b) produce to the Business Licensing Officer a certificate issued under the Business Registration Act,

before a Business Licence is issued under this Act.

[Cap. 46:02]

- (3) Subject to [section 16](#), any business which is not regulated by any written law shall, upon application and payment of the prescribed fee, be issued with a Business Licence.
- (4) A Business Licence shall authorise the holder thereof to carry on business at premises, stated in the Business Licence, issued to him in relation to the business.

13. Exemptions

- (1) No Business Licence under this Act shall be required by—
 - (a) any person specially appointed to conduct a sale of any goods in execution of any order of any court;
 - (b) a sheriff or his deputy selling in execution of his lawful duty;
 - (c) any person selling any goods solely as a necessary incident to the provision of any professional or other personal services;
 - (d) the owner or operator of any aircraft, ship, or railway coach in respect of sales made on board to passengers travelling thereon;
 - (e) any religious organization selling only religious literature;
 - (f) any person selling goods for charitable purposes only;
 - (g) any person selling goods to any member of any naval, military or police service in any canteen, institute or mess recognised as such by the Ministry:

Provided that this paragraph shall not apply to any person who is not a member of the force and who conducts the canteen for profit;
 - (h) any person who sells goods or carries on business in a market established under any Act;
 - (i) any person who sells goods by way of business, or carrying on any business from temporary premises, at a show or exhibition; or
 - (j) any person who sells otherwise by retail goods manufactured, grown or produced in Malawi by him.
- (2) The Minister may, from time to time, by notice published in the *Gazette*, exempt from all or any of the provisions of this Act generally or in any area and subject to conditions that he may find fit, any person who sells goods by way of business or carries on a business, for which a licence is required under this Act, in circumstances that make it desirable in the public interest that the exemption be granted.

14. Application for issuing or renewal of a Business Licence

- (1) Any person who wishes to operate a business shall make an application for a Business Licence to the Business Licensing Centre in the Local Authority where the business is located or any public agency appointed as a Business Licensing Centre.
- (2) Every application for issue, or renewal, of a Business Licence under this section shall be in a form and signed in a manner as may be prescribed by the Minister.
- (3) For avoidance of doubt, application for issue or renewal of a Business Licence under this section may be made through a representative.

15. Particulars of an application

- (1) Every application for a Business Licence under this Act shall contain the following—
 - (a) the name of the business and an indication of whether the owner is a firm, a corporate entity or a natural person;
 - (b) the proposed date of commencement of the business;
 - (c) the name, physical and postal addresses of the owner of the business and, if the owner is an individual, his age;
 - (d) where the owner is a firm, the partners thereof;
 - (e) nationality of the owner;
 - (f) where the owner is a corporate entity, the registration number and date of registration of the company;
 - (g) certificate of the issued business under the Business Registration Act;
[Cap. 46:02]
 - (h) in the case of a subsidiary business, the name and location of its head office;
 - (i) the nature of the core activity of the business;
 - (j) the nature of any auxiliary business;
 - (k) the number of employees in the business;
 - (l) the physical address, where applicable, postal address and telephone numbers of the business;
 - (m) the telefax number, e-mail and website address of the business, if any;
 - (n) the name of the chief executive officer or any other person in charge of the management of the business; and
 - (o) the extent to which, if any, that the business has been granted an applicable certificate of compliance or authorization to trade or operate under [section 12](#) (2).
- (2) The Minister may, by order published in the *Gazette*, vary, amend or revoke the requirements set out in subsection (1).

16. Grounds for refusal to issue or renew Business Licence

- (1) Where, when considering any application for the issue or renewal of any Business Licence, the Business Licensing Officer is satisfied that—
 - (a) the applicant is under the age of eighteen years;
 - (b) the applicant is an undischarged bankrupt;
 - (c) a receiving order in bankruptcy has been made out against the applicant within the last two years preceding his application;
 - (d) the applicant has been convicted of a bankruptcy offence within the last three years preceding his application;
 - (e) the applicant has been convicted of carrying on unlawful business within the last three years preceding his application;
 - (f) the applicant has failed to produce evidence of compliance with the relevant regulatory statute; or

- (g) the information provided under [section 15](#) (1) is incorrect, misleading, false or lacking in material particulars,
may refuse to issue or renew the Business Licence, as the case may be, or may issue or renew it subject to conditions as he may find appropriate.
- (2) Before refusing to issue, renew, or imposing any conditions on the issue or renewal of, any Business Licence, the Business Licensing Officer shall give the applicant an opportunity to show cause why his application should not be refused or why such conditions should not be imposed.
- (3) A decision on whether or not to issue or renew a Business Licence shall be made within seven working days of the receipt of the application and, where the decision is not made within the stipulated time, the business shall be deemed to be licensed for all purposes.

17. Validity of a Business Licence

- (1) A Business Licence shall be valid for a period of one year from the date of issue of the Business Licence.
- (2) A business shall, at least one month before the expiry of a Business Licence and upon payment of the prescribed renewal fees, be issued a Business Licence in respect of the next following twelve months.
- (3) For the avoidance of doubt, a Business Licence for a period of twelve months may be issued at any time.
- (4) No refunds of fees shall be made in respect of a suspended, cancelled or revoked Business Licence.
- (5) Unless otherwise provided, a Business Licence shall specify the premises on which the business shall be carried on.

18. Annual return

Every applicant for renewal of a Business Licence shall submit to the Business Licensing Centre in the Local Authority where the business is located or any public agency appointed as a Business Licensing Centre an annual return in the prescribed form showing, inter alia—

- (a) annual turnover per business activity;
- (b) changes in ownership; and
- (c) outstanding credit obligations.

19. Extent of authority of a Business Licence

Nothing in this Act shall entitle any person to conduct business in contravention of any law governing activities of the business, including—

- (a) town planning regulations;
- (b) health regulations;
- (c) safety regulations;
- (d) environmental regulations;
- (e) in relation to persons who are not of Malawian nationality, immigration requirements; or
- (f) any regulation governing the conduct of any specific type of business or profession.

20. Premises to have a conspicuous sign

Every set of premises specified in a Business Licence under [section 12](#) (4) shall bear, in legible alphabetical or numerical characters on a conspicuous part of the premises, the name of the licensee.

21. Exhibition of Business Licences

Every person who is issued with a Business Licence under this Act shall exhibit the Business Licence in a conspicuous place in the premises where the business is carried on.

22. Local Authority not to issue a Business Licence, permit or other authorization

Save as otherwise provided under any other written law, no Local Authority, its agent or any other person shall have the power to issue any Business Licence, permit or authorization that serves as a precondition for the right to conduct a business.

Part V – Suspension, revocation and cancellation of Business Licence**23. Amendment, cancellation, revocation or suspension of a Business Licence**

- (1) The Business Licensing Officer may amend, suspend, revoke or cancel a Business Licence issued under [section 12](#) where he is satisfied that—
 - (a) the premises have ceased to be used for the purpose for which the Business Licence was issued;
 - (b) the business owner, manager or person in charge has, since the Business Licence was issued, been convicted of any offence in this Act; or
 - (c) the business has failed to comply with any condition of the Business Licence.
- (2) Any person who has been notified that the Business Licence in respect of his business has been suspended, revoked or cancelled under this Act shall surrender the business licence to the Business Licensing Officer who issued the Business Licence or the Chief Business Licensing Officer.

24. Notification of intention to amend, cancel, revoke or suspend a Business Licence

Where the Business Licensing Officer is satisfied that—

- (a) the owner, manager or a person in charge of a business has failed to comply with any legislation specifically governing the activities of that type of business;
- (b) a business has been liquidated or is no longer trading; or
- (c) the owner, manager or any person in charge furnished false information during registration,

he shall issue to the owner, manager, or any person in charge as the case may be, of the business, a notice in writing, with reasons, of intention to amend, suspend, cancel or revoke the Business Licence.

25. Right to be heard

Any person who has been served with a notice under [section 24](#) shall be given an opportunity of appearing and making representation relevant to the proposed action, to the Business Licensing Officer who shall consider the representation and make his decision in writing within fourteen days.

26. Appeals

- (1) Any person who is aggrieved by—
 - (a) an amendment, suspension, cancellation or revocation of a Business Licence;
 - (b) a refusal of the Business Licensing Officer to issue or transfer a Business Licence; or
 - (c) any decision made under this Act,may, within thirty days from the date of the decision, appeal to the Minister in writing.
- (2) Where the Business Licensing Officer has amended, suspended, cancelled or revoked a Business Licence under [section 23](#), the suspension, cancellation or revocation shall not have effect until the period within which an appeal against suspension, cancellation or revocation may be made to the Minister has elapsed or, if the appeal has been made, until the appeal has been heard and determined:

Provided that this subsection shall not apply to a decision made under [section 32](#).
- (3) A person aggrieved by the decision of the Minister may within thirty days from the date of the decision appeal to the High Court against the decision of the Minister.

Part VI – Obligations of an owner, manager or person in charge of a business

27. Notification to the Business Licensing Officer

- (1) The owner, manager or any person in charge of a business shall notify the Business Licensing Officer for the Local Authority in which his business is licensed where—
 - (a) he ceases to operate the business;
 - (b) the business is placed under liquidation;
 - (c) the business premises are changed;
 - (d) the core activities of the business have changed;
 - (e) the Business Licence is misplaced, destroyed or lost;
 - (f) the business has moved to a different Local Authority; or
 - (g) there is any change in the particulars contained in the application for a Business Licence.
- (2) Upon receipt of the information submitted pursuant to subsection (1), the Business Licensing Officer may amend, cancel or revoke the business licence or may, in cases of subsection (1) (e) and (f), issue a duplicate or a new business licence, as the case may be.

28. Replacement of a lost or destroyed Business Licence

Any person whose Business Licence has been defaced, lost or destroyed may, upon application and payment of the prescribed fee, obtain a duplicate business licence from the Business Licensing Officer for the Local Authority in which his business is licensed.

Part VII – Transfer of Business Licences

29. Transfer of a Business Licence

- (1) Subject to the provisions of this section, any person may apply to the Business Licensing Officer for the transfer of a Business Licence to him.

- (2) An application under subsection (1) shall be accompanied by the Business Licence or, if that is not practicable, a statement of the reasons for the failure to provide the business licence.
- (3) Subject to subsection (4), the Business Licensing Officer shall transfer the Business Licence in accordance with the application within seven days of receiving the application.
- (4) The Business Licensing Officer shall reject the application where one or more of the following conditions are not met—
 - (a) the application fees have been paid;
 - (b) the holder of the Business Licence agrees in writing to the transfer; or
 - (c) the applicant has given a satisfactory explanation for his failure to obtain the consent of the holder of the Business Licence.
- (5) The Business Licensing Officer shall exempt the applicant from the requirement to obtain the consent of the holder of the Business Licence where the applicant shows to the satisfaction of the Chief Licensing Officer that—
 - (a) he has taken all reasonable steps to obtain the consent; and
 - (b) if the application were granted, he would be in a position to use the premises for the licensable activity authorised by the Business Licence.
- (6) Where the Business Licensing Officer refuses to transfer the Business Licence to an applicant under this section, he shall notify the applicant of his decision and the reasons therefor in writing within seven days.
- (7) For avoidance of doubt, an application for issue or renewal of a Business Licence under this section may be made through a representative.

Part VIII – Businesses by non-Malawians

30. Businesses by non-Malawians

- (1) No Business Licence shall be issued to a non-Malawian unless he holds a valid permit under laws relating to immigration, citizenship or refugees and otherwise satisfies the requirements of this Act.
- (2) A Business Licence shall not be issued to a non-Malawian unless he provides evidence showing that he is investing Malawi capital of not less than \$250,000 brought from outside Malawi.
- (3) Where applicable, on application or renewal of a Business Licence under [section 14](#), the applicant shall file a statement, in addition to any other documents, describing the participation in the management or finances of the business by a Malawian partner.
- (4) The Minister may by order published in the *Gazette* vary the monetary limits referred to in subsection (2).
- (5) For the purposes of this Part, “capital” means all cash contribution, plant, machinery, equipment, buildings, spare parts, and other business assets other than goodwill which are not consumed in the regular operations of the business and have a life of more than twelve months.
- (6) Any person who knowingly or recklessly contravenes any provision of this Part commits an offence and shall be liable to a fine of K5,000,000 and to imprisonment for five years.
- (7) The Minister shall, in collaboration with the Ministry responsible for immigration, publish guidelines for the operation of this Part.

Part IX – Appointment and powers of inspectors

31. Appointment of inspectors

- (1) The Minister may, by notice published in the *Gazette*, appoint inspectors for purposes of the execution of this Act.
- (2) The Minister shall notify the Minister responsible for Local Government of the appointment of the inspectors under subsection (1).
- (3) Every inspector shall be issued with an identity card and shall, when visiting business premises or any other place to which this Act applies, produce the identity card if so required by the owner, occupier or any other person having control of the premises or place.
- (4) All officers in the Ministry shall be *ex officio* inspectors.

32. Powers of inspectors

- (1) An inspector shall, for purposes of the execution of this Act, have powers to—
 - (a) require the production of the Business Licence or any document required to be kept under this Act and to inspect, examine and make copies of the Business Licence or the document;
 - (b) take with him a police officer where he has reasonable cause to believe that he is likely to encounter obstruction in the execution of his duties;
 - (c) demand the owner, occupier or any other person having control of the premises to give any information that is in the power of the owner, occupier or person having control of the premises to give; and
 - (d) order the cessation of trading for a period not exceeding fourteen days and issue reasons therefor, subject to confirmation of the order in writing by the Chief Licensing Officer.
- (2) An inspector shall issue a report to the Chief Business Licensing Officer in respect of each Business Licensing Centre in a Local Authority within fourteen days of completing an inspection of the Local Authority.

Part X – Offences

33. Offences

- (1) A person who—
 - (a) carries on business without being licensed under this Act;
 - (b) provides false information at any time during the process of making an application for a Business Licence;
 - (c) conducts a business without observing other legislation governing the business; or
 - (d) carries on business at any place not specified in the Business Licence, commits an offence.
- (2) A person convicted of an offence under subsection (1) shall be liable to a fine equivalent to ten per cent of the annual turnover of the business.
- (3) A person who—
 - (a) willfully tampers with or destroys any information kept under this Act;
 - (b) willfully obstructs an inspector in the discharge of his duties under this Act;

- (c) without reasonable cause, fails to give to an inspector assistance or information which an inspector may require of him for purposes of the performance of his duties under this Act; or
- (d) in giving information required of him under paragraph (c), makes a statement which he knows to be false or which he does not believe to be true,

commits an offence and, on conviction, shall be liable to a fine of K50,000 and to imprisonment for one year.

34. Compounding offences

- (1) The Chief Business Licensing Officer may, where satisfied that a person has committed an offence under [section 32](#) (1) or any regulation made under this Act, compound the offence by accepting from the person a sum of money not exceeding the amount of the fine to which the person would have been liable to pay if he had been prosecuted and convicted of the offence:

Provided that—

- (a) the power provided under this section shall be exercised only where the person admits in writing to have committed the offence; and
 - (b) the Chief Licensing Officer exercising the power conferred by this section shall give the person from whom he receives the money a receipt thereof.
- (2) Where an offence under this Act or any regulation made under this Act is compounded in accordance with subsection (1) and proceedings are instituted against the offender for the same offence, it shall be a good defence where the offender proves to the satisfaction of the court, that the offence with which he is charged has been compounded under subsection (1).

35. Failure to surrender a Business Licence

A person who fails, without a reasonable excuse, to surrender to the Business Licensing Officer a Business Licence that has been suspended, cancelled or revoked, commits an offence and, on conviction, shall be liable to a fine equivalent to ten per cent of the annual turnover of the business.

Part XI – Miscellaneous provisions

36. Reserved businesses

The Minister may, for purposes of promoting the participation of Malawians in economic activity, by order published in the *Gazette*, reserve some businesses to be carried out by Malawians only.

37. Regulations

- (1) The Minister may make regulations for the purpose of carrying out the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Regulations may—
 - (a) prescribe the forms to be used under this Act and the conditions to be complied with in applying for the licensing of a business and the procedure in the manner of the applications;
 - (b) prescribe the fees to be paid in respect of any matter or thing done under this Act or the Regulations;
 - (c) provide for the licensing of the sale of packaged foodstuffs and bottled or packed liquor for consumption off the premises of a business;
 - (d) specify professions to which the provisions of this Act shall apply;
 - (e) require Business Licensing Officers to submit returns to the Chief Business Licensing Officer;

- (f) provide for the time frame within which specific obligation shall be carried out;
 - (g) prescribe the manner in which Business Licences are to be exhibited;
 - (h) prescribe the manner in which an application for a Business Licence in respect of a business without premises may be issued;
 - (i) provide for conditions that may be attached to a Business Licence;
 - (j) provide for activities that are exempted from the application of this Act;
 - (k) provide for the use of technology in making an application for a Business Licence or any other activity under this Act;
 - (l) in relation to businesses by non-Malawians, provide for—
 - (i) the type of businesses;
 - (ii) the minimum capital requirement;
 - (iii) the location of the businesses; and
 - (iii) any other requirement; and

[Please note: numbering as in original.]
 - (m) provide anything which, under this Act, may be prescribed.
- (2) Notwithstanding the provisions of section 21 (e) of the General Interpretation Act, a person who commits an offence against any provision of subsidiary legislation made under subsection (1) shall be liable to a fine not exceeding K5,000,000 and to imprisonment not exceeding one year.

[Cap. 1:01]

[Please note: numbering as in original.]

38. Immunity

No person shall, in his personal capacity, be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of duties or functions under this Act.

39. Repeal and savings

- (1) The Businesses Licensing Act is repealed.
- (2) Any subsidiary legislation made under the Act repealed by subsection (1), in force immediately before the commencement of this Act—
 - (a) shall remain in force unless in conflict with this Act and shall be deemed to be subsidiary legislation made under this Act; and
 - (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

[Cap. 46:01]

40. Transitional provisions

All Business Licences and exemptions granted under the Business Licensing Act shall remain in force until on such a date as the Minister shall appoint by notice published in the *Gazette* and whereupon they shall lapse and holders thereof shall be required to obtain licences in accordance with this Act.

[Cap. 46:01]