

The Malawi Gazette Supplement, dated 5th March, 2021, containing
Regulations, Rules, etc. (No. 6A)

GOVERNMENT NOTICE NO. 12

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (LICENSING OF REPROGRAPHIC REPRODUCTIONS IN COPY
SHOPS) REGULATIONS, 2021

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FIRST SCHEDULE- APPLICATION FOR LICENCE FOR
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IN EXERCISE of powers conferred by section 119 of the Copyright Act, I, DR. MICHAEL
BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations—

1. These Regulations may be cited as the Copyright (Licensing of Reprographic Reproductions In Copy Shops) Regulations, 2021. Citation
2. In these Regulation, unless the context otherwise requires— Interpretation
 - “author” means a person who creates a work other than an audio visual work;
 - “authorized person” means a member of the licensee and all persons acting under the authority of the licensee;
 - “authorized purposes” means all purposes within or in support of the mandate of a copy shop;
 - “copy” means any reproduction or making available to the public by

telecommunication in any material form whatever, including a digital copy, that is made by or as a consequence of any of the following activities—

(a) reproducing by a reprographic process, including reproduction by photocopying;

(b) scanning a paper copy to make a digital copy;

(c) printing a digital copy;

(d) transmission by electronic mail;

(e) transmission by facsimile;

(f) storage of a digital copy on a local storage device or medium;

(g) posting or uploading a digital copy to a secure network or storing a digital copy on a secure network;

(h) transmitting a digital copy from a secure network and storing it on a local storage device or medium;

(i) projecting an image using a computer or other device;

(j) displaying a digital copy on a computer or other device;

(k) posting a link or hyperlink to a digital copy; and

(l) hand transcription or drawing (including tracing onto acetate or other media).

“copy shop” means a business premise where reprographic reproduction is taking place;

“copyright protected works” means literary, dramatic, musical and, or artistic works, derivative works and typographic arrangements of works and similar materials otherwise protected under the Act;

“digital copy” means any electronic file of a published work;

Cap. 46:01

“licensee” means all copy shops operating as such, under the Business Licensing Act or applicable Local Government By-Laws;

“licensor” means the Society;

“published work” means work which, with the consent of the author, has been made available to the public in tangible copies in a quantity sufficient to satisfy a reasonable demand for the work;

“repertoire” means published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the published works who, by assignment, grant of licence, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized Copyright Society of Malawi to collectively administer reprographic reproduction rights in the said published works; and

“year” means the financial year of the Government.

Application

3. These Regulations shall apply to all businesses that own or operate copy shops in Malawi.

4.—(1) Any person who owns or operates a copy shop shall apply for registration with the Society and include the following information in the application using a prescribed form in the First Schedule hereto—

Registration
of copy shops

- (a) name of copy shop;
- (b) owner of copy shop;
- (c) identification of photocopying machine;
- (d) location of the machines;
- (e) number of machines; and
- (f) capacity of each machine.

(2) The Copyright Administrator shall, where satisfied with the application in subregulation (1), and upon the payment of a licence fee, issue a licence to the applicant.

(3) The licence issued pursuant to this regulation shall be valid for one year and be automatically renewed at the end of the year.

(4) The Licensor or licensee may by thirty days' written notice to the other party, notify the other party of an intention not to renew the licence.

5. All owners of copy shops shall pay an annual fee to the Society for reproduction of copyright protected works as prescribed in the Second Schedule hereto.

Annual fees

6. Copies of a work shall—

General
conditions

(a) only be made from a published work that is lawfully obtained by the authorized person making the copies;

(b) not be made as a substitute for a published work that would ordinarily be purchased or commonly available;

(c) not be made or used in a manner that would infringe the moral rights of the author;

(d) not be used in advertising products or services; and

(e) be accurate reproductions of the original published work.

7.—(1) A licensee, with authority given by the licensor and for authorized purposes only, may—

Extent of
copying

(a) copy up to fifteen per cent (15%) of the published work from a single book or similar publication provided that such limit may be excluded in respect of—

(i) an entire newspaper article or page;

(ii) an entire single short story, play, essay, article or poem from a published work that contains other published works;

(iii) an entire reproduction of an artistic work (including drawings, paintings, prints, photographs, reproduction of works of sculpture, architectural works of art and works of artistic craftsmanship), from a published work that contains other published works; or

(iv) one chapter, provided it is not more than twenty per cent (20%) of a book;

(b) copy up to thirty per cent (30%) for a publication that is no longer available commercially or directly from the publisher provided that an effort to contact the publisher has been made; and

(c) make a copy to replace any damaged or missing pages of a published work in the licensee's holdings.

Handling of
digital copies

8. A licensee shall not, with regard to a digital copy of published work—

(a) place that digital copy on any computer or computer network on the publicly accessible internet in such a way as to be made publicly available or accessible otherwise than by a secure network; and

(b) in the repertoire, share, email, or otherwise distribute to any persons other than an employee of the copy shop.

Reproduction
of works for
use by persons
with disabilities

9. The reproduction of a published literary, artistic or musical work in a form specifically intended for visually impaired persons or persons with print disabilities who, due to the nature of their disability, are not able to access or enjoy the work in any of the forms, shall be permitted:

Provided that the reproduction and the making available of the copies is not made on a commercial basis and that the copies shall be made available only to such disabled people for which they are intended, and that the reproduction is not made from copies which are made for the same purpose.

Reporting
and payments

10.—(1) A licensee shall pay, during each year, an annual fee to the licensor calculated against the number of copy machines being used at the copy shop as prescribed in the Second Schedule hereto—

(2) No later than thirty days before commencement of a new financial year of the licensee, the licensee shall provide to licensor the number of copy machines which shall assist in calculation of the annual fee payable.

(3) The licensor will invoice the licensee and such invoice shall be payable within thirty days of the issue date.

(4) Once payment has been made, the licensor shall issue a licence which the licensee shall display in a prominent and visible place within the copy shop.

(5) The licensor shall pay appropriate remuneration to persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties.

Interest

11. Any payment not received by the due date prescribed in regulation 10 shall bear interest from that date until the amount is received according to the average commercial bank lending rate.

Appeals

12. A licensee who is aggrieved with any licence condition set by the licensor, which are contrary to these Regulations, may, within fourteen days from the date the condition is set or the decision is made, appeal to the Society Board to review the decision, as the case may be.

13. Any person who contravenes these Regulations commits an offence and shall on conviction be liable to a fine of K5,000,000.00 and imprisonment for two years.

Offences and penalties

14. The Society and the Police may seize any equipment or machinery used or used to aid the illegal reproduction of infringing copies contrary to the provisions of these regulations.

Seizure of property used in infringement of copyright

15. Anything done by the licensor and the licensee before the commencement of these Regulations in respect of a reprographic rights licensing and which thing is capable of being done under these Regulations shall be deemed to have been validly done under these Regulations.

Validity of acts

16. The Society shall pay appropriate remuneration to the person, persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties

Distribution of funds

FIRST SCHEDULE

(reg. 4)

APPLICATION FOR LICENCE FOR REPROGRAPHIC REPRODUCTIONS IN COPY SHOPS

I/We.....Proprietor(s) Manager(s) of..... apply for a licence for Reprographic reproductions for works in which copyright subsists under the copyright Act in our copy shop.

Address.....

Location Telephone No.....

District Email.....

<i>Number of Photocopying Machines per Premise</i>	<i>Please tick where appropriate</i>
1. One	
2. Two	
3. More than two	

I/We.....the Proprietor/Manager of the above institution declare that the information given above is true to the best of my/our knowledge and belief.

Declared at..... on.....day of.....,20.....

.....
Applicant's signature

FOR OFFICIAL USE ONLY

Application approved: Yes..... No.....

Name of licensing officer.....

Date.....

Signature of licensing officer

Return to:

*The Copyright Administrator**Copyright Society of Malawi**P.O. Box 30784**Lilongwe 3**Tel: 751 148 Email: cosoma@cosoma.mw*

SECOND SCHEDULE

(reg. 5)

RATES APPLICABLE TO COPY SHOPS

The rates prescribed hereto shall be applicable by copy shops—

No. of copy machines per copy shop per year	Rate per Copy machine/Year	
	k	t
1	50,000	00
2	75,000	00
3	100,000	00

Made this 23rd of February, 2021.

DR. M. B. USI

*Minister of Tourism, Culture
and Wildlife*

(FILE NO.MEIQ/CUL/03/1)

GOVERNMENT NOTICE NO. 13

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (CULTURAL FUND) REGULATIONS, 2021

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I MICHAEL BIZWICK USI, Minister of Tourism, Culture, and Wildlife make the following Regulations—

- Citation 1. These Regulations may be cited as the Copyright (Cultural Fund) Regulations, 2021.
- Interpretation 2. In these Regulations, unless the context otherwise requires —
- “Fund Administrator” means the Copyright Administrator of the Society appointed pursuant to regulation 4;
- “Committee” means the Committee established by the Minister pursuant to regulation 4; and

"Fund" means the Cultural Fund established under section 98 of the Act.

3.—(1) The Copyright Administrator is hereby appointed to be the Fund Administrator.

Administration of the Fund

(2) The Fund administrator shall be responsible for administration of the Fund in accordance with the provisions of these Regulations and the Act, the Public Audit Act and the Public Finance Management Act.

Cap. 37:01
Cap. 37:02

4.—(1) There is hereby established a Fund Committee which shall comprise of five persons.

Fund Committee

(2) The Fund Administrator shall nominate, subject to the approval of the Board, five members who shall be citizens of Malawi and professionals in the field of the arts, business and financial management and project management, and appointed by the Minister to form the Fund Committee.

(3) Committee members shall hold the office for a term of three years, and shall be eligible for re-appointment for one further final term.

(4) The Chairperson of the Committee shall be appointed by the Minister from the names proposed by the Board, to be chairperson.

5. The Committee shall—

Functions of the Fund Committee

(a) set the criteria for awarding grants under the Fund;

(b) award, approve and monitor the administration of projects under the Fund;

(c) determine funding recommendations based on priorities and relevant key policies; and

(d) review audits of grants.

6.—(1) The Committee shall hold ordinary meetings at least four times each year.

Meetings of the Committee

(2) The quorum at any meeting shall be three persons.

(3) Notwithstanding paragraph 5(1), an extraordinary meeting of the Committee may be convened by the Chairperson of Committee at any time in consultation with the Fund Manager.

(4) The Committee shall determine procedures for conducting meetings.

7. The Board of the Society shall appoint a Fund Manager who shall

Functions of the Fund Manager

(a) be responsible for the day to day management of the Fund ;

(b) account for the funds disbursed from the Fund to the Minister; and

(c) coordination and supervision of the Fund.

8.—(1) The Fund Manager shall cause to be paid out of the monies of the Fund,—

Disbursement from the

- (a) grants approved by the Committee; and
- (b) administrative costs relating to the
 - (i) administrative management of the Committee;
 - (ii) financial auditing of the accounts of the Fund;
 - (iii) remuneration of Committee members; and
 - (iv) other matters affecting the administration of the Fund as approved by the Committee.

(2) Two per cent (2%) of the total sum of the Fund shall be reserved for implementation of section 99, in particular, for enforcement activities.

Selection
criteria for
grants

9. The Committee shall develop guidelines for—
- (a) public announcement of call for proposals;
 - (b) criteria for awarding grants;
 - (c) criteria for evaluating projects;
 - (d) requirements for the approval of a project;
 - (e) the development of a grant agreement with respect to each grant recipient, in consultation with the Fund Administrator, which shall, *inter alia*, provide for—
 - (i) the receipt and use of a grant;
 - (ii) a schedule of a grant process;
 - (iii) the auditing and reporting requirements for a grant and any project financed by a grant;
 - (iv) representation and warranties of a grant;
 - (v) the procedures to monitor performance for awarded grants; and
 - (vi) the procedure to be followed for the return of an unused grant or the recovery of a misused grant; and
 - (f) the operating procedure of the Committee.

Publication of
information
on grants
awarded from
the Fund

10. The Committee shall publish on the website of the Society and in newspapers of nationwide circulation, information on each resolution of the Committee to award a grant and justification thereof.

Accounts of
Fund
Cap. 37:01
Cap. 37:02

11.—(1) The Fund Manager 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 Public Audit Act and the Public Finance Management Act.

(2) The Fund Manager shall cause to be prepared, as soon as practicable, but not later than three months after the end of the financial year, an annual report on all the financial transactions of the Fund for approval by the Fund Committee.

(3) The Chairperson of the Fund Committee shall after the report is approved by the Fund Committee, present the annual Report to the Board.

(4) The Fund Administrator shall submit to the Minister, no later than six months after the end of each financial year, the annual report of Committee and an annual report of the Auditor General.

Made this 23rd of February, 2021.

DR. M. B. USI
*Minister of Tourism, Culture
and Wildlife*

(FILE NO. MHQ/CLT/03/1)

GOVERNMENT NOTICE NO. 14

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (LICENSING OF REPROGRAPHIC REPRODUCTIONS IN
BUSINESSES) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

REGULATION

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9. Reproduction of works for use by persons with disabilities
10. Duration of a licence
11. Reporting and payments
12. Interest
13. Surveys
14. Adjustments to licence fees
15. Appeals
16. Offences and penalties
17. Seizure of property used in infringement of copyright
18. Validity of acts

SCHEDULE

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I, DR MICHAEL BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations—

1. These Regulations may be cited as Copyright (Licensing of Citation Reprographic Reproductions in Businesses), Regulations, 2021.

2. In these Regulations, unless the context otherwise requires—

Interpretation

“authorized person” means staff member of the licensee and all persons acting under the authority of the licensee;

“authorized purposes” means all purposes within or in support of the mandate of a business authorized under a licence issued pursuant to these Regulations;

“business” means any business enterprise duly registered under the Laws of Malawi;

“copy” means to reproduce or make available to the public by telecommunication in any material form whatever, including a digital copy, that is made by or as a consequence of any of the following activities--

(a) reproducing by a reprographic process, including reproduction by photocopying;

(b) scanning a paper copy to make a digital copy;

(c) printing a digital copy;

(d) transmission by electronic mail;

(e) transmission by facsimile;

(f) storage of a digital copy on a local storage device or medium;

(g) posting or uploading a digital copy to a secure network or storing a digital copy on a secure network;

(h) transmitting a digital copy from a secure network and storing it on a local storage device or medium;

(i) projecting an image using a computer or other device;

(j) displaying a digital copy on a computer or other device;

(k) posting a link or hyperlink to a digital copy; and

(l) hand transcription or drawing including tracing.

“copyright protected works” means literary, dramatic, musical and/or artistic works, derivative works and typographic arrangements of works and similar materials otherwise protected under the Act;

“digital copy” means any electronic file of a published work;

“licensee” means all businesses licensed to operate as such under the Business Licensing Act;

“Licensor” means the Society;

“repertoire” means published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the published works who, by assignment, grant of licence, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized the Society to collectively administer reprographic reproduction rights in the said published works; and

“year” means the financial year of the Government.

3. These Regulations shall apply to all businesses that reproduce copyright protected works, operating in Malawi. Application

4.—(1) A person who intends to reproduce a copyright protected work shall submit to the Society, an application form prescribed in the Schedule hereto. Licensing

(2) The Copyright Administrator shall issue a licence if satisfied that the application submitted pursuant to subregulation (1) meets the prescribed requirements.

(3) The licensee and Licensor shall sign an agreement which shall stipulate all the rights granted including all the other conditions of the licence.

5.—(1) An authorized person may make and distribute copies of copyright protected works in the repertoire, for— Right to reproduce copyright work

(a) any not-for-profit purposes of conducting business within the mandate of the licensee; and

(b) the purpose of the delivery of a company and the company's related programs and services, including professional, research, archival, communication and administrative activities of the licensee.

(2) The right granted in subregulation (1) shall be valid only for the purposes in respect of which it has been issued and for the period, and with respect to the premises specified in a licence.

(3) A business may copy copyright protected works with the authority of the authorized person, within or outside the business premises.

6.—(1) A person, where authority is given by the licensor and for authorized purposes only, may— Extent of copying

(a) copy up to fifteen per cent (15%) of the published work from a single book or similar publication provided that such limit may be excluded in respect of—

(i) an entire newspaper article or page;

(ii) an entire single short story, play, essay, article or poem from a published work that contains other published works;

(iii) an entire reproduction of an artistic work including drawings, paintings, prints, photographs, reproduction of works of sculpture, architectural works of art and works of artistic craftsmanship, from a published work that contains other published works; or

(iv) one chapter, provided it is not more than twenty per cent (20%) of a book;

(b) make a copy to be used to project, display or interact with an image for presentation;

(c) copy up to thirty per cent (30%) for a publication that is no longer available commercially or directly from the publisher provided that an effort to contact the publisher has been made; and

(d) make a copy to replace any damaged or missing pages of a published work in the licensee's possession.

General conditions

7. Copies of a work shall –

(a) only be made from a published work that is lawfully obtained by the authorized person making the copies:

(b) not be made as a substitute for a published work that would ordinarily be purchased or commonly available:

(c) not be made or used in a manner that would infringe the moral rights of the author;

(d) not be used in advertising products or services; and

(e) be accurate reproductions of the original published work.

Handling of digital copies

8. A person shall not, with regard to a digital copy of published work,—

(a) place the digital copy on any computer or computer network on the publicly accessible internet in such a way as to be made publicly available or accessible otherwise than by a secure network; or

(b) in the repertoire, share, email, or otherwise distribute to any persons other than an employee of the institution.

Reproduction of works for use by persons with disabilities

9. An authorized person may reproduce a published literary, artistic or musical work in a form specifically intended for visually impaired persons or persons with print disabilities who, due to the nature of their disability, are not able to access or enjoy the work in any of the forms:

Provided that the reproduction and the making available of the copies is not made on a commercial basis and that the copies shall be made available only to such disabled people for which they are intended, and that the reproduction is not made from copies which are made for the same purpose.

Duration of a licence

10. –(1) A licence issued under these Regulations shall be valid for a period of one year and be automatically renewed at the end of the year unless not renewed.

(2) The Licensor or licensee may by thirty days written notice to the other party notify the other party of an intention not to renew a licence.

Reporting and payments

11.- (1) A licensee shall pay an annual royalty fee to the licensor calculated by multiplying the royalty rate of K5,000.00 by number of its staff members but subject to a minimum annual fee of K200,000.00.

(2) No later than thirty days before commencement of a new financial year of the licensee, the licensee shall provide to licensor the number of its staff members which shall assist in calculation of the annual fee payable.

(3) The Licensor shall invoice the licensee and such invoice shall be payable within thirty days of the issue date.

(4) Once payment has been made, the licensor shall issue a licence which the licensee shall display in a prominent and visible place within the premises from which the licensee operates.

(6) The licensor shall pay appropriate remuneration to the person, persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties.

12. Any payment not received by the due date prescribed in regulation 10 shall bear interest from that date until the amount is received according to the average commercial bank lending rate. Interest

13.—(1) The Licensor may, at intervals and in consultation with the licensee, conduct a bibliographic and volume survey of the uses permitted under regulation 4. Surveys

(2) The Society shall give a licensee a notice of at least one month before conducting the survey in subregulation (1).

(3) Upon request, the licensee shall participate in the survey and shall ensure that all authorized persons cooperate fully with the requirements of the survey.

(4) The licensee shall give the Society after being given notice, access to its premises to conduct the survey at reasonable times.

(5) The access granted in subregulation (3) may be subject to reasonable arrangement for supervision as required by the licensee to ensure the security of its premises, including its computer systems and networks, and to maintain the confidentiality of personal or other confidential data.

14. Any adjustments in the amount of licence fees payable including overpayments, as a result of the discovery of an error or otherwise, shall be applied to the next invoice issued by licensor to the licensee. Adjustments to licence fees

15. A licensee who is aggrieved with any licence condition set by the licensor may, within fourteen days from the date the condition is set or the decision is made, appeal to the Board to review the decision, as the case may be. Appeals

16. Any person who contravenes these Regulations commits an offence and shall on conviction be liable to a fine of K5,000,000.00 and imprisonment two years. Offences and penalties

17. The Society and the Police including other security agents, may seize any equipment or machinery used or used to aid the illegal reproduction of infringing copies contrary to the provisions of these regulations. Seizure of property used in infringement of copyright

18. Anything done by the licensor before the commencement of these Regulations in respect of a reprographic rights licensing and which thing is capable of being done under these Regulations shall be deemed to have been validly done under these Regulations. Validity of acts

SCHEDULE

(reg. 4(1))

APPLICATION FOR LICENCE FOR REPROGRAPHIC REPRODUCTIONS IN
BUSINESSES

I/We.....Proprietor(s)/Manager(s)
of.....apply for a licence for
Reprographic reproductions for works in which copyright subsists under the copyright Act
in our business establishment.

Address

Location Telephone No.....

District..... Email.....

<i>Employees</i>	<i>Total number of Employees</i>
1. Full time	
2. Contract	
3. Part time/Temporary	

I/We.....the Proprietor/Manager
of the above institution declare that the information given above is true to the best of my/our
knowledge and belief.

Declared at..... on..... day of..... 20.....

.....
Applicant's signature

FOR OFFICIAL USE ONLY

Application approved: Yes..... No.....

Name of licensing officer

Date.....

Signature of licensing officer

Return to:

The Copyright Administrator

Copyright Society of Malawi

P.O. Box 30784

Lilongwe 3

Tel: 751 148 Email: cosoma@cosoma.mw

Made this 23rd of February, 2021.

(FILE NO.MHQ/CUL/03/1)

DR. M. B. USI
*Minister of Tourism, Culture
and Wildlife*

GOVERNMENT NOTICE NO. 15

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (LICENSING OF REPROGRAPHIC REPRODUCTIONS IN
EXAMINING INSTITUTIONS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

REGULATION

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2. Interpretation
3. Application
4. Licensing
5. General conditions
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7. Conditions regarding persons with disabilities
8. Licence duration
9. Reporting and payments
10. Interest
11. Surveys
12. Adjustments
13. Appeals
14. Offences and penalties
15. Seizure of property used in infringement of copyright

SCHEDULE

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I DR. MICHAEL BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations —

1. These Regulations may be cited as Copyright (Licensing of Citation Reprographic Reproductions in Examining Institutions) Regulations, 2021.

2. In these Regulations, unless the context otherwise requires— Interpretation

“academic year” means the period of the school calendar as directed by the Ministry of Education;

“author” means the person who creates a work other than an audio visual work;

“authorized person” means —

(a) a student; or

(b) a staff member of an examining institution;

“authorized purposes” means all purposes within or in support of the mandate of the educational institution in relation to the permissions granted under these Regulations;

“copy” means to reproduce or make available to the public by telecommunication in any material form whatever, including a digital copy, that is made by or as a consequence of any of the following activities –

- (a) reproducing by a reprographic process, including reproduction by photocopying;
- (b) scanning a paper copy to make a digital copy;
- (c) printing a digital copy;
- (d) transmission by electronic mail;
- (e) transmission by facsimile;
- (f) storage of a digital copy on a local storage device or medium;
- (g) posting or uploading a digital copy to a secure network or storing a digital copy on a secure network;
- (h) transmitting a digital copy from a secure network and storing it on a local storage device or medium;
- (i) projecting an image using a computer or other device;
- (j) displaying a digital copy on a computer or other device;
- (k) posting a link or hyperlink to a digital copy; and
- (l) hand transcription or drawing including tracing onto acetate or other media;

“copyright protected work” means a literary, dramatic, musical and, or artistic work, derivative work and typographic arrangements of a work and similar materials otherwise protected under the Act;

“course of study” means a course or unit of academic, continuing, professional, or vocational study administered or hosted by the educational institution;

“digital copy” means an electronic file of a published work;

“examining institution” means any body other than an educational institution administering public examinations in Malawi;

“Licensee” means any Ministry or examining institution licensed pursuant to these Regulations;

“Licensor” means the Society;

“published work” means work which, with the consent of the author, has been made available to the public in tangible copies in a quantity sufficient to satisfy a reasonable demand for the work;

“secure network” means an electronic network, internet or cloud based storage service of the examining institution that is only accessible to employees of the institution and students writing examinations;

“staff member” means, in respect of examining institutions any member of staff of the institution;

“student” means a person engaged in a course of study;

“repertoire” means those published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the Published Works who, by assignment, grant of license, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized Society to collectively administer reprographic reproduction rights in the said Published Works; and

“year” means the financial year of the Government.

3. These Regulations shall apply to all public examining institutions in Malawi that reproduce copyright protected works in examination papers. Application

4.—(1) An examination institution shall submit an application to the Society in the prescribed form in the Schedule hereto. Licensing

(2) The Copyright Administrator shall issue a licence if satisfied that the application submitted pursuant to subregulation (1) meets the prescribed requirements.

(3) The licensee and licensor shall sign an agreement which shall stipulate all the rights granted including all the other conditions of the licence relating to reprographic reproduction activities of the licensee throughout the year.

5.—(1) Copies of a work shall—

(a) only be made or reproduced from a published work that is lawfully obtained by the authorized person making the copies;

(b) be made or reproduced as a substitute for a published work that would ordinarily be purchased or is commonly available;

(c) not be made, reproduced or used in a manner that would infringe the moral rights of the author;

(d) not be used in advertising products or services; and

(e) be accurate reproductions of the original published work.

(2) An examining institution may make copies, with the authority of the authorized person, within or outside the institution.

6. Digital copies of a published work in the repertoire shall not be— Handling of digital copies

(a) be placed on any computer or computer network on publicly accessible internet in such a way as to be made publicly available or accessible otherwise than by a secure network; or

(b) shared, emailed, or otherwise distributed to any persons other than a member of staff of the examining institution and students writing examinations, where applicable.

7. The reproduction of a published literary, artistic or musical work in a form specifically intended for visually impaired persons or persons with print disabilities who, due to the nature of their disability, are not able to access or enjoy the work in any of the forms, shall be permitted: Conditions regarding persons with disabilities

Provided that the reproduction and the making available of the copies is not made on a commercial basis and that the copies shall be made available only to such disabled people for which they are intended, and that the reproduction is not made from copies which are made for the same purpose.

Licence
duration

8.—(1) A licence issued pursuant to these Regulations shall be valid for one year.

(2) The licensee shall be required to annually obtain a Copyright licence from the Society.

(3) The agreement made under regulation 4, shall automatically renew on a year to year basis unless terminated by either party upon thirty days written notice to the other party.

Reporting and
payments

9.—(1) An examining institution shall pay, during each year, an annual royalty fee to the Society which shall be the sum of multiplying the number of exam copies per subject by K50.00.

(2) Examining institutions shall submit to the Society, within ten days after finalization of registration of examination candidates, information on the number of candidates registered for purposes of calculating advance payable fees by the examining institution.

(3) Once payment for fees in subregulation (2) has been made, the Society shall issue a licence to the examining institution which the licensee shall publicly display in a prominent and visible position at the institution.

(4) An examination institution shall submit to the Society, within thirty days after finalization of examinations, information on the number of exam papers reproduced per subject including the name of the author and the source from which the reproduction was made and accompanied by one copy of the examination paper for calculation of final payment of fees.

(5) The licensor shall pay appropriate remuneration to a person, persons or associations entitled thereto, out of the fees collected under these regulations, in accordance with its procedures of distribution of royalties.

Interest

10. Any payment not received by the due date shall bear interest from the date on which the payment was due until the amount is received, according to the commercial bank lending rate.

Surveys

11.—(1) The Licensor, may at intervals and in consultation with the licensee, conduct a bibliographic and volume survey of the uses permitted under regulation 4.

(2) The Licensor shall give the licensee at least one month written notice of intention to conduct a survey.

(3) Upon request, the licensee shall participate in the survey and shall ensure that all authorized persons cooperate fully with the requirements of the survey.

(4) The Licensee shall grant the Licensor, on reasonable notice, right of access throughout the institutions premises, at any reasonable times, to administer the survey and such access may be subject to reasonable

arrangement for supervision as required by the institution to ensure the security of its premises, including its computer systems and networks, and to maintain the confidentiality of personal or other confidential data.

12. Any adjustments in the amount of licence fees payable including overpayments, as a result of the discovery of an error or otherwise, shall be applied to the next invoice issued by the licensor to the licensee. Adjustments

13. A licensee who is aggrieved with any condition endorsed by the Society may within fourteen days from the date the condition is endorsed or the decision is made, appeal to the Board of the Society to review the condition or decision, as the case may be. Appeals

14. Any person who contravenes these Regulations commits an offence and shall be liable to a fine of K5,000,000.00 and imprisonment for two years. Offences and penalties

15. The Society and the Police including other security agents, may seize any equipment or machinery used or used to aid the illegal reproduction of infringing copies contrary to the provisions of these regulations. Seizure of property used in infringement of copyright

SCHEDULE

(reg. 4)

APPLICATION FOR LICENCE FOR REPROGRAPHIC REPRODUCTIONS IN EXAMINING INSTITUTIONS

I/We.....Manager(s) of
..... apply for Reprographic reproductions for copyright protected works in examination papers in our institution.

Address.....

Location Telephone No.....

District Email.....

<i>Name of Examination Subject</i>	<i>Total Number of Copies Reproduced</i>
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
11.	
12.	

<i>Name of Examination Subject</i>	<i>Total Number of Copies Reproduced.</i>
13.	
14.	
15.	

If more than 15 subjects, use separate sheet.

I/We..... the Manager of the above institution declare that the information given above is true to the best of my/our knowledge and belief.

Declared at..... on..... day of.....20...

Applicant's signature

FOR OFFICIAL USE ONLY

Application approved: Yes..... No.....

Name of licensing officer.....

Date
Signature of licensing officer

Return to:

The Copyright Administrator

Copyright Society of Malawi

P.O. Box 30784

Lilongwe 3

Tel: 751 148 Email: cosoma@cosoma.mw

Made this 23rd of February, 2021.

DR. M. B. USI
*Minister of Tourism, Culture
and Wildlife*

(FILE NO.MTQ/CUL/03/1)

GOVERNMENT NOTICE NO. 16

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (PUBLIC LENDING RIGHT) REGULATIONS, 2021

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I, DR MICHAEL BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations—

- Citation 1. These Regulations may be cited as the Copyright (Public Lending Right), Regulations, 2021.
- Interpretation 2. In these Regulations, unless the context otherwise requires--
“author” means the person who creates a work other than an audio visual

work:

“authorized person” means member of staff of a public library and any other authorized person;

“authorized purposes” means all purposes within or in support of the mandate of an institution which is authorized under these Regulations;

“copyright protected works” means literary, dramatic, musical and, or artistic works, derivative works and typographic arrangements of works and similar materials otherwise protected under the Act;

“financial year” means the financial year of the Government;

“public library” means a resource or learning centre with a collection of published copyright works for rental funded by the Government;

“public lending right” means an exclusive right that an author has on his work to authorize or prohibit the lending out of his work to the public;

“public lending right remuneration” means the remuneration authors receive from Government through the Society as compensation for the free lending of their books in public libraries;

“published work” means work which, with the consent of the author, has been made available to the public in tangible copies in a quantity sufficient to satisfy a reasonable demand for the work;

“publisher” means a person who invests resources in making a work available to the public;

“rightsholder” means an author, publisher, illustrator and translator of works;

“registration” means registration of authors, publishers, illustrators and translators into the Public Lending Right scheme;

“rental” means distribution by way of rental, lease, hire or similar arrangement;

“staff member” means full time employee or individual working for a public library under contract or a part time employee whose combined ordinary working hours are counted in proportion to a full time employees' ordinary working hours; and

“repertoire” means those published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the published works who, by assignment, grant of licence, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized Copyright Society of Malawi to collectively administer reprographic reproduction rights in the said published works.

3. These Regulations shall apply to all public libraries in Malawi.

Application

- Rights 4.—(1) Authors, publishers, illustrators and translators of works shall be entitled to be compensated by the Government of Malawi for the use or lending out of their copyright protected works in public libraries which use or lending out is done free of charge.
- (2) The right granted in subregulation (1) shall be valid only for the purposes in respect of which it has been issued and for the period, and with respect to the premises specified thereon.
- Obligations of public libraries 5. Public libraries shall—
- (a) record all books borrowed from the library and submit the same every quarter to the Society specifying the author and publisher of each published work as well as the number of times the book has been borrowed;
- (b) ensure that only original published works are lent out to the public; and
- (c) submit data to Society on volume of books at the library at least thirty days after the end of each financial year.
- Obligations of rights holders 6.—(1) Rights holders shall ensure that they register their published works with the Society.
- (2) The information submitted pursuant to subregulation (1) shall form part of the repertoire for the Public Lending Right scheme.
- Obligation of the Government 7.—(1) The Government shall ensure that funds for remuneration for the Public Lending Right is factored in the Government budget every financial year.
- (2) The Government shall ensure that the Public Lending Right remuneration is paid timely at least within ninety days at the beginning of each financial year.
- Reporting and payments 8. The Government shall pay, during each financial year and on behalf of all public libraries in Malawi, a remuneration to the Society calculated by multiplying the total number of books by local Malawian authors in all the public libraries by the rate of K200.00 per book subject to a minimum annual fee of K4,000,000.00.
- License 9. Once payment under regulation 8 has been made, the Society shall within thirty days, issue licences to all public libraries which the libraries will have to publicly display in a prominent and visible position within the institution.
- Distribution of remuneration 10. The Society shall pay appropriate remuneration to the person, persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties.
- Survey 11.—(1) The Society may, at intervals and in consultation with a public library, conduct a bibliographic and volume survey.
- (2) The Society shall give a public library a notice of at least one month to before conducting the survey.

(3) Upon request, the public library shall participate in the survey and shall ensure that all authorized persons cooperate fully with the requirements of the survey.

(4) The public library shall grant the Society access to the institutions' premises, at any reasonable times, to administer the survey and such access may be subject to reasonable arrangement for supervision as required by the institution to ensure the security of its premises, including its computer systems and networks, and to maintain the confidentiality of personal or other confidential data.

12. Any person who contravenes these Regulations commits an offence and shall be liable to a fine of K5,000,000.00 and imprisonment for two years. Offences and penalties

SCHEDULE

(reg. 5(c))

PROGRAMME RETURNS OF WORKS BORROWED FROM A PUBLIC LIBRARY

I/We Manager(s) of provide the following information of books borrowed from our library as required by the copyright Act.

Address.....

Location Telephone No.....

District Email.....

<i>Title of Book</i>	<i>Author</i>	<i>Publisher</i>	<i>Number of times Borrowed</i>
1.			
2.			
3.			
4.			
5.			
6.			
7.			
8.			
9.			
10.			

If more than 10, use a separate sheet.

I/We the Manager of the above institution declare that the information given above is true to the best of my/our knowledge and belief.

Declared at..... on day... of.....20.....

.....
Applicant's signature

FOR OFFICIAL USE ONLY

Received by:

Name of licensing officer.....

Date.....

Signature of licensing officer

Return to:

The Copyright Administrator

Copyright Society of Malawi

P.O. Box 30784

Lilongwe 3

Tel: 751 148 Email: cosoma@cosoma.mw

Made this 23rd of February, 2021.

DR. M. B. USI

*Minister of Tourism, Culture
and Wildlife*

(FILE NO:MHQ/CCL/03/1)

GOVERNMENT NOTICE NO. 17

COPYRIGHT ACT

(CAP. 49:03)

COPYRIGHT (LICENSING OF REPROGRAPHIC REPRODUCTIONS IN
EDUCATIONAL INSTITUTIONS) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

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1. Citation
2. Interpretation
3. Application
4. Licensing
5. Duration of right
6. Extent of copying
7. General Conditions
8. Conditions for use for digital copies
9. Conditions regarding people with disability
10. Licence duration
11. Reporting and payments
12. Interest
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14. Adjustments
15. Appeals
16. Offences and penalties
17. Seizure of property used in infringement of copyright

REGULATION

18. Validity of acts
19. Transition period

SCHEDULE

IN EXERCISE of powers conferred by section 119 of the Copyright Act, I DR. MICHAEL BIZWICK USI, Minister of Tourism, Culture and Wildlife, make the following Regulations -

1. These Regulations may be cited as Copyright (Licensing of Citation Reprographic Reproductions in Educational Institutions), Regulations, 2021.

2. In these Regulations, unless the context otherwise requires Interpretation

“academic year” means the twelve month period of the school calendar as directed by the Minister responsible for education;

“authorized person” means --

- (a) a student; or
- (b) a member of staff of an education institution;

“authorized purposes” means all purposes within or in support of the mandate of an education institution related to a licence issued under these Regulations;

“copy” means to reproduce or make available to the public by telecommunication in any material form whatever, including a digital copy as a result of sequence of any of the following activities--

(a) reproducing by a reprographic process, including reproduction by photocopying;

(b) scanning a paper copy to make a digital copy;

(c) printing a digital copy;

(d) transmission by electronic mail;

(e) transmission by facsimile;

(f) storage of a digital copy on a local storage device or medium;

(g) posting or uploading a digital copy to a secure network or storing a digital Copy on a secure network;

(h) transmitting a digital copy from a secure network and storing it on a local storage device or medium;

(i) projecting an image using a computer or other device;

(j) displaying a digital copy on a computer or other device;

(k) posting a link or hyperlink to a digital copy; and

(l) hand transcription or drawing including tracing onto acetate or other media;

“copyright protected works” means literary, dramatic, musical and, or artistic works, derivative works and typographic arrangements of works and similar materials otherwise protected under the Act;

“course of study” means a course or unit of academic, continuing, professional, or vocational study administered or hosted by an educational institution;

“digital copy” means any electronic file of a published work;

“education institution” means an institution located in Malawi that provides secondary, post-secondary, continuing, professional or vocational education or training including open, distant learning, universities and colleges;

“examining institution” means any body other than an educational institution administering examinations in Malawi;

“Licensee” means any Ministry, school board, public or private educational, examining institution or other entity licensed pursuant to these Regulations;

“licensor” means the Society;

“private educational institution” means an institution providing education that is not a public education Institution;

“public education institution” means any institution providing education which is operated under the authority of the Government or its agents including being fully or partially funded by the Government;

“school board” means a school board of an education institution operating under the authority of the Minister responsible for education;

“secure network” means an electronic network, internet or cloud based storage service of the examining institution that is only accessible to employees of an education institution;

“staff member” means—

(a) in respect of educational institutions a teacher, tutor or lecturer, an associate or full professor, an instructor or any other person in an essential comparable to those listed above; and

(b) in respect of examining institutions means any member of staff of the institution;

“student” means a person engaged in a course of study; and

“repertoire” means those published works published in or outside of Malawi by any author or publisher, estate of an author or publisher or other person with a copyright interest in the published works who, by assignment, grant of licence, by appointment as an agent, express or implied, reciprocal agreement or otherwise, has authorized the Society to collectively administer reprographic reproduction rights in the said published works.

Application

3. These Regulations shall apply to—

(a) licensees under these Regulations; and

(b) all persons acting under the authority of the licensees in

subregulation (a) to make and distribute copies of copyright protected works in the repertoire, for any not-for-profit purposes and in line with the mandate of the institution including—

- (i) educational which includes teaching, learning, testing and examination activities;
- (ii) production of teacher implementation documents, correspondence and distance learning courses and similar activities; and
- (iii) making of copies of published works for inclusion in tests or examinations or in distance education materials.

4.—(1) A person who intends to reproduce copyright protected works shall submit to the Society, an application form prescribed in the Schedule hereto. Licensing

(2) The Copyright Administrator shall issue a licence if satisfied that the application submitted pursuant to subregulation (1) meets the prescribed requirements.

(3) The licensee and licensor shall sign an agreement which shall stipulate all the rights granted including all the other conditions of the licence relating to reprographic reproduction activities of the licensee throughout the year.

5. The right granted under these Regulations shall be valid only for the purposes in respect of which it has been issued and for the period specified thereon. Duration of right

6. An authorized person, may for authorized purposes only— Extent of copying

(a) copy up to fifteen per cent (15%) of the published work from a single book or similar publication provided that such limit may be excluded in respect of—

- (i) an entire newspaper article or page;
- (ii) an entire single short story, play, essay, article or poem from a published work that contains other published works;
- (iii) an entire reproduction of an artistic work including drawings, paintings, prints, photographs, reproduction of works of sculpture, architectural works of art and works of artistic craftsmanship, from a published work that contains other published works; and
- (iv) one chapter, provided it is not more than 20 per cent of a book;

(b) make a copy to be used to project, display or interact with an image for presentation; and

(c) copy up to thirty per cent (30%) for a publication that is no longer available commercially or directly from the publisher provided that an effort to contact the publisher has been made.

7.—(1) Copies of a work shall - - General conditions

(a) only be made from a published work that is lawfully obtained by the authorized person making the copies;

(b) not be made as a substitute for published work that would ordinarily be purchased or is commonly available;

(c) not be made or used in a manner that would infringe the moral rights of the author;

(d) not be used in advertising products or services; and

(e) be accurate reproductions of the original published work.

(2) Copying with the authority of the authorized person, may be done within or outside the institution premises.

Handling of
digital copies

8. Digital copies of published works in the repertoire shall not be—

(a) placed on any computer or computer network on a publicly accessible internet in such a way as to be made publicly available or accessible otherwise than by a secure network; or

(b) shared, emailed, or otherwise distributed to any persons other than an employee of the Ministry or staff of the education institution.

Conditions
regarding
persons with
disabilities

9. The reproduction of a published literary, artistic or musical work in a form specifically intended for visually impaired persons or persons with print disabilities who, due to the nature of their disability, are not able to access or enjoy the work in any of the forms shall be permitted:

Provided that the reproduction and the making available of the copies is not made on a commercial basis and that the copies shall be made available only to such disabled people for which they are intended, and that the reproduction is not made from copies which are made for the same purpose.

Licence
duration

10.—(1) A licence issued pursuant to these Regulations shall be valid for one year.

(2) A licensee shall be required to annually obtain a Copyright licence from the Society.

Reporting and
payments

11.—(1) An education institution shall pay, during each academic year, an annual royalty fee to Society calculated as follows—

(a) secondary or vocational education or training including open and distant learning calculated by the sum of multiplying the number of students at the education institution by K250.00 and number of staff members by K410.00 but subject to a minimum annual fee of K40,000.00; and

(b) post-secondary institutions, continuing professional development institutions including vocational education institutions, universities and colleges by the sum of multiplying the number of students at the educational institution by K300.00 and number of staff members by K520.00 but subject to a minimum annual fee of K300,000.00.

(2) No later than sixty days after opening of the first term of the academic year, an education institution shall provide the Society with information on enrolment figures of the educational institution and number of members of staff which shall assist in calculation of the payable annual fee.

(3) Once payment has been made, the Society shall, within thirty days, issue a licence to the education institution which the institution will have to display in a prominent and visible position within the institution.

(4) The licensor shall pay appropriate remuneration to the person, persons or associations entitled thereto, out of the fees collected under these Regulations, in accordance with its procedures of distribution of royalties

12. Any payment not received by the due date shall bear interest from that date until the amount is received according to the commercial bank lending interest rate. Interest

13.—(1) The Licensor may, at intervals and in consultation with the licensee, conduct a bibliographic and volume survey of the uses permitted under regulation 4. Surveys

(2) The Licensor shall give a licensee a notice of at least one month to the licensee before conducting the survey.

(3) Upon request, the licensee shall participate in the survey and shall ensure that all authorized persons cooperate fully with the requirements of the survey.

(4) The licensee shall grant the Licensor access to the institutions' premises, at any reasonable times, to administer the survey and such access may be subject to reasonable arrangement for supervision as required by the institution to ensure the security of its premises, including its computer systems and networks, and to maintain the confidentiality of personal or other confidential data.

14. Any adjustments in the amount of licence fees payable including overpayments, as a result of the discovery of an error or otherwise, shall be applied to the next invoice issued by the Society to a licensee. Adjustments

15. A licensee who is aggrieved with any condition endorsed by the Society may within fourteen days from the date the condition is endorsed or the decision is made, appeal to the Board to review the condition or decision, as the case may be. Appeals

16. Any person who contravenes these Regulations commits an offence and shall be liable to a fine of K5,000,000.00 and imprisonment for two year Offences and penalties

17. The Society and the Police including security agents, may seize any equipment or machinery used or used to aid the illegal reproduction of infringing copies contrary to the provisions of these regulations. Seizure of property used in infringement of copyright

18. Anything done by the Society and licensees before the commencement of these Regulations in respect of a reprographic rights licensing and which thing is capable of being done under these Regulations Validity of acts

shall be deemed to have been validly done under or pursuant to these Regulations.

Transition
period

19. All licencees or persons who intend to reproduce published works under these Regulations shall comply with the requirements of these Regulations within six months from the effective date of these Regulations.

SCHEDULE

(reg.4)

APPLICATION FOR LICENCE FOR REPROGRAPHIC REPRODUCTIONS IN
EDUCATIONAL INSTITUTIONS

I/We.....Proprietor(s)/Headteacher(s), Principal(s)
of..... apply
for a licence for Reprographic reproductions for works in which copyright subsists under
the copyright Act in our institution.

Address.....

Location Telephone No.....

District Email.....

Establishment *Total number of students per academic year*

1. Secondary School
2. Highschool
3. Vocational Training Centre
4. College
5. University

Please tick where appropriate

I/We..... the Proprietor/Headteacher/Principal
of the above institution declare that the information given above is true to the best of my/our
knowledge and belief.

Declared at..... on.... day of.....20....

.....
Applicant's signature

FOR OFFICIAL USE ONLY

Application approved: Yes..... No.....

Name of licensing officer.....

Date.....

Signature of licensing officer

Return to:
The Copyright Administrator
Copyright Society of Malawi
P.O. Box 30784
Lilongwe 3
Tel: 751 148 Email: cosoma@cosoma.mw

Made this 23rd of February, 2021.

(FILE NO. MHQ/CUL/03/1)

DR. M. B. USI
*Minister of Tourism, Culture
and Wildlife*