

GOVERNMENT NOTICE NO. 43

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

ACCOUNTANCY SERVICES REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

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IN EXERCISE of the powers conferred by section 57 of the Public Accountants and Auditors Act, I FELIX LAFIEL MLUSU, Minister of Finance, in consultation with the Malawi Accountants Board, make the following Regulations—

PART I—PRELIMINARY

Citation 1. These Regulations may be cited as the Accountancy Services Regulations, 2021.

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

“accountancy services” means the recording, review, analysis, calculation or reporting of financial information and includes professional bookkeeping services, preparation of financial statements, tax advisory services, liquidation and management services, financial assurance services, preparing or signing accounts or certificates of financial information concerning a person’s or organisation’s financial affairs;

for avoidance of doubt, accountancy services shall exclude services such as auditing services and attestation of audit opinion;

“accountancy service provider” means a registered chartered accountant or registered diplomate accountant offering accountancy services;

“practicing accountant” has the same meaning as defined under the Accountancy service providers and Audit Firms Regulations, 2017;

“tax advisory services” means assistance rendered to an individual or an entity in the completion and submission of tax returns in relation to any tax or duty or providing advice relating to tax or duty liability or the amount of tax or duty payable on a particular commodity or service and includes tax computation, tax advisory, tax claim and any other services relating to tax; and

“users” means any person who has been recognized as the user of services, products and reports rendered by an accountancy or advisory service provider.

Application 3. These Regulations apply to the provision of—

- (a) accountancy services;
- (b) assurance services on any financial issue; and
- (c) any other financial services.

PART II—REGISTRATION OF ACCOUNTANCY SERVICES PROVIDERS

Application for registration as an accountancy service provider 4.—(1) A person who intends to provide accountancy services, shall apply to the Board, for registration.

(2) An application for registration shall be—

(a) made by completing an application Form 1 prescribed in the Schedule hereto; and

(b) accompanied by an application fee prescribed in Form 2 in the Schedule hereto.

5.—(1) The Board shall not register an applicant unless the Board is satisfied that—

(a) the applicant is registered as a Chartered accountant or a Diplomat accountant by the Board;

(b) in the case of a Chartered accountant, the person has acquired two years post-qualification experience as a Chartered accountant and in the case of a Diplomat accountant, the person has acquired four years post-qualification experience as a Diplomat accountant;

(c) the applicant has registered a business, partnership or firm, under the Companies Act or the Business Registration Act, to provide accountancy services and where such registration is of a partnership, the person has submitted a duly executed partnership agreement;

(d) in the case of a partnership, all partners are registered with the Board and that at least one partner is resident in Malawi; and

(e) the applicant or, where the application is being made on behalf of a firm or partnership, any director of the company or any one of the partners has not, within the past seven years, been convicted of an offence under any written law punishable by a term of imprisonment of at least six months without an option of a fine.

6.—(1) The Board shall process an application received under regulation 4 and communicate results to the applicant within sixty days from the date the application is received.

(2) Where the Board is satisfied that the applicant has met the registration criteria set out in regulation 5, the Board may, subject to such terms or conditions as the Board may determine, register the applicant as an accountancy service provider and issue a registration certificate to the applicant.

(3) Where an application has been rejected, the Board shall inform the applicant, in writing, of the decision and give reasons for the rejection.

(4) An accountancy service provider who does not comply with any term or condition prescribed by the Board under subregulation (2) shall be liable to an administrative penalty.

7.—(1) An accountancy service provider shall pay to the Board an annual subscription fee prescribed in Form 2 in the Schedule hereto by the 31st day of January of each year.

(2) An accountancy service provider that has not paid an annual subscription fee in accordance with subregulation (1) shall not offer accountancy services until the fees are paid.

(3) The Board may impose an additional monetary penalty for the delay in paying the annual subscription fee.

(4) An accountancy service provider that contravenes the provisions of subregulation (2) shall be liable to an administrative penalty.

Criteria for
registration of
an
accountancy
service
provider

Registration
of an
accountancy
service
provider

Annual
subscription
fee

Register of
accountancy
service
providers

8.—(1) The Board shall maintain a register of registered accountancy service providers which shall be open for inspection to the public in a manner as the Board may prescribe.

(2) The register shall be used as a point of reference for any individual or entity seeking to obtain accountancy services.

(3) The Board shall publish on its website a list of registered accountancy service providers which shall be updated from time to time.

(4) The Board shall publish, once a year, in a newspaper of wide circulation a list of registered accountancy service providers.

Submission of
annual returns

9.—(1) An accountancy service provider shall submit to the Board an annual return report which shall contain the following information—

(a) categories of accountancy services offered;

(b) clientele base, categorized in accordance with categories of services provided;

(c) changes in key personnel during the year; and

(d) any other information which the Board may request.

(2) The Board shall not require submission of financial statements by the accountancy service provider.

(3) Notwithstanding subregulation (2), the Board may require the accountancy service provider to submit, within seven days from the date of the request, other accounting information which the Board may consider appropriate in the supervision of the accountancy service provider where—

(a) the Board is in receipt of a complaint from a client against the professional and ethical conduct of the accountancy service provider;

(b) the accountancy service provider is under investigation for financial crimes or malpractice; and

(c) the accountancy service provider is undergoing liquidation or is in receivership.

(4) The Board may request an accountancy service provider to submit periodic reports, statistics, data or additional information, subsequent to an earlier submission, in order to effectively perform its supervisory functions.

(5) An accountancy service provider that contravenes the provisions of this regulation shall be liable to an administrative penalty.

PART III—QUALITY ASSURANCE REVIEWS

Quality
assurance
review

10.—(1) The Board may, at any time, conduct a quality assurance review of the practice of an accountancy service provider and may for these purposes inspect and make copies of any information, including but not limited to any working papers, correspondence, books or documentation in the possession or under the control of the accountancy service provider.

(2) The quality assurance reviews assessment shall be divided into two parts as follows—

(a) engagement reviews; and

(b) accountancy service provider reviews.

11. The objectives of the reviews shall be to—

Objective of
the reviews

(a) monitor compliance with relevant professional standards in the provision of services by registered accountancy service providers;

(b) assess the design and implementation of the systems of quality control employed by the accountancy service provider including leadership responsibilities, ethical requirements, human resources and client engagement; and

(c) ensure that there is improved standards and the quality of work provided by the accountancy service provider.

12.—(1) An accountancy service provider shall be subjected to a quality assurance review at least once every three years, which shall be referred to as a review cycle.

Quality
assurance
review cycle

(2) The Board shall not proceed to the next review cycle of the accountancy service provider unless the results for the review cycle are satisfactory.

(3) A quality assurance review shall be carried out by qualified professionals employed on full time or part time basis by the Board.

13. An accountancy service provider shall comply with relevant professional standards in a manner that is most cost effective.

Compliance
with
professional
standards

14. The outcome of a quality assurance review shall be an ongoing pursuit of quality improvement by accountancy service providers.

Outcome of
the quality
assurance
review

15.—(1) The Board may appoint an independent individual or institution to carry out a quality assurance review of an accountancy service provider.

Appointment
of an
independent
reviewer

(2) Where the Board decides to appoint an independent individual or institution to carry out a quality assurance review, the Board shall have regard to—

(a) expertise, qualifications and independence of the individual or individuals assigned by the institution to conduct the quality assurance review;

(b) potential for conflict of interest in the person or institution to be appointed;

(c) capacity deficiencies within the Board; and

(d) the number of quality assurance reviews to be conducted.

(3) Where the Board decides to appoint an independent individual or institution to carry out a quality assurance review, the Board shall appoint a person or institution that meet the qualification guidelines from IFAC Statement of Membership Obligation 1 (SMO1).

Confidentiality

16.—(1) An employee of the Board, an independent individual or institution appointed by the Board to conduct quality assurance review shall not disclose to a third party any information obtained in the course of the review except—

(a) for purposes of an investigation or a hearing resulting from the review;

(b) where the person is required to do so by order of a Court of law;

(c) where the Institute requires such information for purposes of conducting an investigation which may lead to disciplinary action or criminal prosecution;

(d) where the Institute requires such information for purposes of IFAC's Statement of Members' Obligations; or

(e) with the written consent of the accountancy service provider, and at the written request of an appropriate international regulator.

(2) The Board shall keep all records and information of completed review cycle in strict confidence.

(3) An employee of the Board, an independent individual or institution who contravenes the provisions of subregulation (1) commits an offence and shall upon conviction be liable to a fine of K200,000 and imprisonment for two years

Cost of quality assurance review

17. An accountancy service provider shall, before commencement of any quality assurance review, pay to the Board quality assurance review fees as may be determined by the Board from time to time.

Steps to be followed in quality assurance review

18.—(1) An independent individual or institution authorized by the Board to carry out assurance review shall—

(a) give 60 days' notice to the accountancy service provider to be reviewed;

(b) request pre-review information from the accountancy service provider and the information to be submitted shall include particulars of clients, year-end turnover, and nature of business;

(c) carry out the quality assurance review;

(d) discuss results of the review with the accountancy service provider;

(e) draft and submit a report to the accountancy service provider within 21 days from the date the review is completed;

(f) obtain comments, in writing, from the accountancy service provider within 14 days from the date the report is submitted; and

(g) draft and submit to the Board the final report containing results of the quality assurance review.

(2) The independent individual or institution authorized by the Board to carry out the review shall summarize the report in a format prescribed by the Board and shall submit the summary to the Board.

(3) The Practice Review Committee of the Board shall evaluate the summary report and, where necessary, shall consult with the independent individual or institution that carried out the review in order to make appropriate recommendations to the Board.

(4) The Practice Review Committee shall submit its recommendations to the Board for the Board to make a decision on the results of the review.

(5) The Board shall, within 90 days of making its decision, notify the accountancy service provider of its decision.

19.—(1) The Practice Review Committee shall make the following recommendations to the Board—

Recommendations of the Practice Review Committee

(a) the results of the quality assurance review are satisfactory and the accountancy service provider shall be subject to review in the next cycle;

(b) the results of the quality assurance review are not satisfactory and the Board should conduct follow up reviews until the performance is satisfactory; or

(c) the results of the quality assurance review are not satisfactory and the accountancy service provider should be subjected to disciplinary action by the Board.

(2) An accountancy services provider shall be subjected to disciplinary action by the Board where the results of the quality assurance review indicate that the accountancy service provider—

(a) did not meet the required professional standards and the users are at risk;

(b) failed to implement the recommendations of the Board emanating from the previous review cycle;

(c) flagrantly disregarded professional standards and ethics;

(d) refused to cooperate with the reviewer in the review process; or

(e) refused to be reviewed.

20.—(1) The Board, an independent individual or institution authorized by the Board shall, in carrying out re-reviews—

Procedure in carrying out re-reviews

(a) focus on assessing how deficiencies identified by the the initial quality assurance review are being progressively addressed by the accountancy service provider;

(b) select new files for review as may be determined by the Board; and

(c) follow the procedure prescribed under regulation 18.

(2) A re-review shall only focus on the addressing deficiencies identified by the initial quality assurance review.

(3) The Practice Review Committee shall make new recommendations to the Board based on results of each re-review.

(4) Each review cycle shall have a maximum of two re-reviews and if after the maximum re-reviews, the accountancy service provider has not yet addressed all the identified deficiencies, the Board shall take disciplinary action against the accountancy service provider in accordance with regulation 19 (2).

Disciplinary
inquiry

21.—(1) The Board shall commence a disciplinary inquiry against an accountancy service provider under regulation 19 (2) by establishing a disciplinary committee.

(2) The disciplinary committee shall, observe rules of natural justice and accord the accountancy service provider under a disciplinary inquiry, a right to be heard.

Outcome of
the
disciplinary
inquiry

22.—(1) The disciplinary committee shall, inquire into the matter and shall within fourteen days of the closure of the disciplinary proceedings, produce a report which shall contain the findings and recommendations of the committee.

(2) Where the committee finds that the accountancy service provider has—

- (a) not met the required professional standards and the users are at risk;
- (b) failed to implement the recommendations of the Board emanating from the previous review cycle;
- (c) flagrantly disregarded professional standards and ethics;
- (d) refused to cooperate with a reviewer in the review process; or
- (e) refused to be reviewed,

the committee shall recommend to the Board that administrative penalties be imposed on the accountancy service provider.

(3) Where the results of the quality assurance review indicate that there was professional negligence or flagrant disregard of professional standards and ethics on the part of the Chartered accountant or Diplomate accountant the Board shall refer the matter to the Institute to commence disciplinary proceedings under section 36 of the Act.

(4) The disciplinary committee may recommend to the Board the imposition of the following administrative penalties—

- (a) a written warning;
- (b) a fine as may be determined by the Board;
- (c) suspension of the registration certificate for a period as may be determined by the Board; or
- (d) revocation of a registration certificate.

(5) Where the Board suspends the registration of the accountancy services provider, the Board shall allocate a registered Practising accountant of not less than 10 years' experience, to mentor the Chartered accountant or Diplomate accountant for a period prescribed by the Board in order to improve the skills, competencies and professional standards of the Chartered accountant or Diplomate accountant.

(6) The Board shall have regard to the report and recommendations of the allocated mentor on the skills, competencies and professional standards and ethics of the suspended Chartered accountant or Diplomate accountant before uplifting the suspension.

(7) A Chartered accountant or Diplomate accountant may, upon expiry of the period of suspension, apply for re-registration with the Board and shall pay a re-registration fee to the Board prescribed in Form 2 to the Schedule hereto.

23.—(1) An accountancy service provider shall maintain proper records and returns relating to his clients and accountancy services offered to the clients. Record keeping

(2) The nature and extent of records and returns maintained shall depend on the nature of the accountancy services offered.

(3) The accountancy service provider shall maintain a permanent file, providing details of clients such as share holding, capital issues and other relevant information which the Board may prescribe.

(4) An accountancy service provider who contravenes this regulation shall be liable to a monetary penalty of K200,000.

24.—(1) The Board may impose administrative penalties listed under regulation 21 (3) to an accountancy service provider who contravenes a provision of these Regulations for which no penalty is provided. General administrative penalties

(2) the Board shall observe the rules of natural justice before the imposition of any the administrative penalty.

25.—(1) The Board may revoke the registration certificate of an accountancy service provider, where the accountancy service provider— Revocation of certificate of registration

(a) has been declared bankrupt by a court of law;

(b) has been de-registered under the Companies Act or the Business Registration Act; and Cap.46:03
Cap.46:02

(c) upon request from the accountancy service provider.

PART IV—GENERAL PROVISIONS

26. Notwithstanding anything contained in these Regulations, where a time period is specified under any regulations for an act to be done or a condition to be fulfilled, the person affected may request, in writing, to the Board for an extension of such time and the Board may grant such extension of time as it considers appropriate. Extension of time

Invalidity
affecting
enforceability

27. Where any provision of these Regulation is not enforceable due to a change in professional standards or any pronouncement from the International Federation of Accountants, the provision shall be suspended and the new standard or pronouncement shall prevail.

SCHEDULE

PUBLIC ACCOUNTANTS AND AUDITORS ACT

r. 4 (2) (a)

(CAP. 53.06)

FORM 1

APPLICATION TO PROVIDE ACCOUNTANCY SERVICES

A. Details of Applicant

Full Name of Entity:

Physical Address:

Postal Address:

Email Address:

Contact Phone Numbers:

B. Operating Revenue per annum:

C. Name of partner

MAB Membership Number

Signature

- | | | |
|---------|-------|-------|
| 1. .... | ..... | ..... |
| 2. .... | ..... | ..... |
| 3. .... | ..... | ..... |
| 4. .... | ..... | ..... |
| 5. .... | ..... | ..... |

D. Other Accountants in the firm

MAB Membership Number

Signature

- | | | |
|---------|-------|-------|
| 1. .... | ..... | ..... |
| 2. .... | ..... | ..... |
| 3. .... | ..... | ..... |
| 4. .... | ..... | ..... |
| 5. .... | ..... | ..... |

Details of the accounting services that the entity provides or intends to provide:

.....

.....

DECLARATIONS AND SIGNATURE

1. I confirm that the information in this form is complete and true.
2. I acknowledge the role, duties and powers of the Malawi Accountants Board and agree to co-operate fully during its reviews.
3. I understand that an annual registration fee will be due upon lodging an application and thereafter at the commencement of MAB's financial year end.

Name: Designation:

Signature: Date:

Please send your duly completed form to:

The Chief Executive Officer
Malawi Accountants Board
Bible House
Victoria Avenue
P O Box 2271
BLANTYRE
E-mail: info@mab.mw

FORM 2 FEES

r. 4 (2) (b), 7 (1), 22 (6)

Matter			K	t
1. Accountancy service provider firm registration .. ..	..	..	1,000,000.00	
2. Accountancy service provider annual subscription fee .. ..	..	..	300,000.00	
3. Accountancy service provider firm re-registration .. ..	..	..	2,000,000.00	

Made this 16th day of June, 2021.

(FILE NO. SUB. D53:06)

F. L. MLUSU
Minister of Finance

GOVERNMENT NOTICE No. 44

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

ACCOUNTANCY TRAINING (AMENDMENT) REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Amendment of Cap 53:06 sub.leg. p39
3. Amendment of regulation 10
4. Insertion of regulation 10A into the principal Regulations
5. Amendment of regulation 15
6. Repeal of regulation 18
7. Replacement of Form 1 and Form 4 in the Schedule

IN EXERCISE of the powers conferred by section 57 of the Public Accountants and Auditors Act, I, FELIX LAFIEL MLUSU, the Minister of Finance, in consultation with the Malawi Accountants Board, make the following Regulations—

Citation 1. These Regulations may be cited as the Accountancy Training (Amendment) Regulations, 2021.

Amendment of
Cap. 53:03
sub.leg. p39 2. The Accountancy Training Regulations (hereinafter after referred to as the “principal Regulations”) are amended in regulation 9 by inserting, immediately after subregulation (2), a new subregulation (3) as follows—

“(3) An accredited training institution shall pay an annual inspection fee prescribed in Form 4 in the Schedule hereto.”

Amendment of
regulation 10 3. The principal Regulations are amended in regulation 10 by inserting immediately after subregulation (2), a new subregulation (3) as follows—

“(3) Where the Board revokes an accreditation certificate, the Board shall publish the name of the institution whose accreditation certificate has been revoked in two newspapers of nation-wide circulation and any electronic media which the Board may determine.”

Insertion of
reg. 10A into
the principal
Regulations 4. The principal Regulations are amended by inserting immediately after regulation 10, a new regulation 10A as follows—

“Application
for
re-accreditation 10A.—(1) An institution whose accreditation certificate has been revoked by the Board under regulation 10 (2) may apply for re-accreditation to the Board and the provisions of regulation 6 shall apply mutatis mutandis to the application for re-accreditation.

(2) An institution that applies for re-accreditation shall pay a re-accreditation fee as prescribed in the Fourth Schedule hereto.

(3) Where the revocation of the accreditation certificate was due to non-payment of retainership fee or any other fee payable to the Board, the application for re-accreditation shall not be processed until and unless the total balance due and owing of the retainership fee or any other fee is paid.

5. The principal Regulations are amended in regulation 15 by renumbering the current regulation as subregulation (1) and inserting a new subregulation (2) as follows—

Amendment
of regulation
15

“(2) Each director and principal officer of the institution shall be liable to the penalty under subregulation (1) and to imprisonment for term of two years.”

6. Regulation 18 of the principal Regulations is hereby repealed.

Repeal of
regulation 18

7. The principal Regulations are amended in the Schedule by—

Replacement
of Form 1 and
Form 4 in the
Schedule

(a) revoking Form 1 and replacing it with a new Form 1 in the Schedule hereto; and

(b) revoking Form 4 and replacing it with a new Form 4 in the Schedule hereto.

SCHEDULE

reg. 6

FORM 1

APPLICATION FOR ACCREDITATION TO OFFER ACCOUNTANCY TRAINING

Please complete this form and attach appropriate supporting documents. Submit the application to: The Chief Executive Officer, Malawi Accountants Board, P. O. Box 2271, BLANTYRE.

1. Particulars of applicant

(a) Name of institution:

.....

(b) Incorporation (Attach a copy of the Constitution or Articles of Association of the institution and a copy of registration certificate from the registrar of companies)

.....

(c) Date of Incorporation/Registration

(d) Owners/shareholders of the Institution (Fill the table below)

Name	National Identity Number	Qualification	Designation	Owner/ Shareholder	Telephone Number	Email Address

- (e) Members of Council/Board (Their designations, qualifications, phone numbers and email addresses)

Name	National Identity Number	Qualification	Designation	Council/ Board Member	Telephone Number	Email Address

- (f) Affiliation (specify whether religious, not-for-profit or profit)

2. Contact Information

- (a) Postal address

- (b) Physical address

- (c) Email address.....

- (d) Website.....

- (e) Telephone numbers:.....

3. Proposed courses/programme

4. Briefly describe the generic criteria for student admission into each programme

5. Infrastructure to support the delivery of the course

- (a) Facilities available

Classroom/Lecture theatres

- Library
- Computer Laboratory
- Sanitation facilities by gender
- Other (Specify)
- (b) Facilities in support of people with disabilities
-

6. Human resources for the delivery of the course/programme

- (a) Full time academic members of staff (for each programme, attach list of members of staff with details of gender, qualifications, institutions where the qualifications were obtained and year)
-
-
-
-
-
- (b) Part-time academic staff members (for each programme, attach list of members of staff with details of gender, qualifications, institutions where the qualifications were obtained and year)
-
-
-
-
- (c) Technical and support staff (attach list of members of staff with details of gender, qualifications, institutions where the qualifications were obtained and year)
-
-
-
- (d) Administrative staff (attach list of members of staff with details of gender, qualifications, institutions where the qualifications were obtained and year)
-
-
-
-

7. Compliance

Please indicate whether or not the institution has complied with the requirements of the National Council for Higher Education (NCHE) or the Technical Entrepreneur and Training Authority (TEVETA) (Attach copy of certificate if already accredited, if not provide plan to attain accreditation)

.....

.....

.....

.....

8. Finance structure

Please describe briefly how the institution will be financed, including fee structure (Attach copy of latest management accounts and audited accounts)

.....

.....

9. Undertaking provision of information

The institution undertakes to provide the Board with information which will enable it carry out its functions under the Act such as annual returns which shall contain the following:

(a) Courses run or offered during the academic year

.....

.....

(b) Number of registered students for the year with gender analysis for each course

.....

.....

.....

(c) The pass rates for examination

.....

.....

(d) Major development projects undertaken during the academic year

.....

.....

.....

(f) Changes in key academic personnel

.....

.....

.....

(g) Challenges encountered during the year and plans for addressing the challenges

.....

(h) Plans for the forth coming academic year

.....

(i) Attach proof of compliance with relevant statutory obligations [Tax clearance certificate, annual business licence, annual premises licence]

.....

(j) Attach Annual financial report.....

.....

10. Proof of payment of Inspection fee of K1,000,000.00

DECLARATIONS AND SIGNATURE

1. I confirm that the information in this form is complete and true.
2. I acknowledge the role, duties and powers of the Malawi Accountants Board and agree to co-operate fully.
3. I understand that an annual registration fee will be due upon lodging the application and thereafter at the commencement of each MAB's financial year.

Name Designation

Signature..... Date:.....

Institution Stamp:.....

FORM 4

r. 5 (1), 6 (6), 9 (3), 10A (2)

FEES

Matter							K	t
1. Accreditation Fee	..	..	..	..	..	..	1,000,000.00	
2. Re-accreditation Fee	..	..	..	..	..	..	2,000,000.00	
3. Annual Retainership Fee	..	..	..	..	..	..	500,000.00	
4. Annual inspection Fee	..	..	..	..	..	..	1,000,000.00	

Made this 16th day of June, 2021.

(FILE NO. SUB. D53:06)

F. L. MLUSU
 Minister of Finance

GOVERNMENT NOTICE NO. 45

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

PRACTISING ACCOUNTANT AND AUDIT FIRMS (AMENDMENT)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Amendment of Cap 53:06 sub. leg. p58
3. Amendment of regulation 8
4. Amendment of regulation 9
5. Amendment of regulation 13
6. Amendment of regulation 22
7. Amendment of regulation 24
8. Insertion of regulation 25A and 25B into the principal Regulations
9. Amendment of the Schedule to the principal Regulations

In Exercise of the powers conferred by section 57 of the Public Accountants and Auditors Act, I, FELIX LAFIEL MLUSU, the Minister of Finance, in consultation with the Malawi Accountants Board, make the following Regulations—

Citation 1. These Regulations may be cited as the Practising Accountant and Audit Firms (Amendment) Regulations, 2021

Amendment of
Cap. 53:03
sub.leg. p58 2. The Practising Accountant and Audit Firms Regulations (hereinafter after referred to as the “principal Regulations”) are amended in regulation 2 by deleting the definition of the word “practising accountant” and replacing it with the following new definition—

““practising accountant” means a chartered accountant in public practice who holds a valid practising certificate issued by the Institute and registered by the Board under Part IX of the Act”.

Amendment of
regulation 8 3. The principal Regulations are amended in regulation 8 by deleting the words “practicing certificate” wherever they appear and substituting therefor the words “registration certificate”.

Amendment of
regulation 9 4. The principal Regulations are amended in regulation 9 by—

(a) deleting subregulation (5) and replacing therefor the following new subregulation (5)—

“(5) Only a practising accountant shall be allowed to issue an opinion on the truth and fairness of financial statements for a client.”.

(b) deleting subregulation (8) and replacing therefor the following new subregulation (8)—

“(8) An audit firm registered in another country other than Malaŵi intending to practice in Malaŵi, shall partner with an audit firm registered in Malaŵi, before it is registered by the Board.”

5. The principal Regulations are amended in regulation 13 by deleting the words "public auditor" and substituting therefor the words "practising accountant".

Amendment
of regulation
13

6.—(1) The principal Regulations are amended in regulation 22 by deleting subregulation (1) and replacing it with the following new subregulation (1) by—

Amendment
of regulation
22

(a) the quality assurance review results are satisfactory, and the practising accountant or audit firm shall be subject to review in the next cycle; and

(b) the quality assurance review results are not satisfactory and the Practice Review Committee shall conduct follow up reviews until the results are satisfactory.

(2) The Principal Regulations are amended in regulation 22 by deleting subregulation (2) and replacing therefor the following new subregulation (2)—

"(2) Where the results of the quality assurance review indicate that the practising accountant or audit firm—

(a) did not meet the required professional standards and the users are at risk;

(b) failed to implement the recommendations of the Board emanating from the previous review cycle;

(c) had flagrantly disregarded professional standards and ethics;

(d) refused to cooperate with a reviewer in the review process;

(e) or refused to be the reviewed;

the practising accountant or audit firm shall be subject to disciplinary action by the Board."

7. The principal Regulations are amended in regulation 24 (5) by deleting the bracketed words "refer to the attached sanctions".

Amendment
of regulation
24

8. The principal Regulations are amended by inserting immediately after regulation 25, new regulations 25A and 25B as follows—

Insertion of
reg. 25A and
25B into the
principal
Regulations

Outcome of the
disciplinary
action
proceedings

25A.—(1) The Board shall commence a disciplinary inquiry against a practising accountant or audit firm under regulation 22 (2) by establishing a disciplinary committee.

(2) The disciplinary committee shall, observe rules of natural justice and accord a practising accountant or audit firm under a disciplinary inquiry a right to be heard.

25B.—(1) The disciplinary committee shall, inquire into the matter and shall within fourteen days of the closure of the disciplinary proceedings, produce a report which shall contain the findings and recommendations of the committee.

(2) Where the committee finds that the practising accountant or audit firm, has not met the required professional standards and the users are at risk—

(a) failed to implement the recommendations of the Board emanating from the previous review cycle;

(b) flagrantly disregarded professional standards and ethics;

(c) refused to cooperate with a reviewer in the review process; or

(d) refused to be reviewed,

the committee shall recommend to the Board that administrative penalties be imposed on the practising accountant or audit firm.

(3) Where the results of the quality assurance review indicate that there was professional negligence or flagrant disregard of professional standards and ethics on the part of the practising accountant the Board shall refer the matter to the Institute to commence disciplinary proceedings under section 36 of the Act.

(4) The disciplinary committee may recommend to the Board the imposition of the following administrative penalties—

(a) a written warning;

(b) a fine as may be determined by the Board;

(c) suspension of a registration certificate for a period as may be determined by the Board; or

(d) revocation of a registration certificate.

(5) Where the Board suspends a practising accountant, the Board shall allocate another practising accountant of not less than 10 years' experience, to mentor the suspended accountant for the period of the suspension to improve his skills, competencies and professional standards.

(6) The Board shall, in deciding to lift a suspension, have regard to the report of the mentor

(7) A suspended practising accountant may, upon expiry of the suspension period, apply for a practising certificate and re-registration with the Board and shall pay a re-registration fee to the Board prescribed in Form 2 of the Schedule hereto.

(8) An audit firm may, upon expiry of the suspension period, apply for re-registration and shall pay to the Board re-registration fees prescribed in Form 2 of the Schedule hereto.

(9) The Board may, subject to subregulation (3) impose a stiffer administrative penalty on a practising accountant or audit firm that does not comply with the administrative penalty imposed by the Board under subregulation (3)

(10) Notwithstanding subregulation (8), a practising accountant or audit firm that does not comply with an administrative penalty imposed under

subregulation (3) commits an offence and shall upon conviction be liable to a fine of K200,000 and imprisonment for two years:

Provided that in the case of an audit firm, a sole owner or partners shall be liable severally to the same penalties.

(11) In addition to any penalty imposed under this regulation, the Board shall publish, in two newspapers of nation-wide circulation, names of the practising accountant or audit firm, whose registration certificate has been suspended or revoked.”

9. The principal Regulations are amended in the Schedule by—

(a) revoking Form 1 and replacing therefor a new Form 1 in the Schedule hereto; and

(b) revoking Form 2 and replacing therefor a new Form 2 in the Schedule hereto.

Amendment
of the
Schedule to
the Principal
Regulation

SCHEDULE

FORM 1

reg. 9 (1)

APPLICATION TO REGISTER AN AUDIT FIRM

A. Full Name of Entity:.....

Physical Address:.....

Postal Address:.....

Email Address:.....

Contact Phone Numbers:.....

B. Operating Revenue per annum

C. Number of audit partners

No.	Name	MAB Membership No.

D. Number of staff:

E. Presence: (Please tick) Local ☐ International ☐

- F. Number of clients audited (Customer Base): Attach list
- G. Registration fee of K1,000,000.00 (attach proof of payment)
- H. Details of the professional services that the entity provides or intends to provide:

.....

.....

.....

DECLARATION

1. I confirm that the information in this form is complete and true.
2. I will provide Malawi Accountants Board with a copy of registration or certificate of incorporation.
3. I acknowledge the role, duties and powers of the Malawi Accountants Board and agree to co-operate fully during its reviews.
4. I understand that an annual retainership fee will be due on 1 January each year.

Name:

Signature:

Designation:

Date:

Please send your duly completed form to:

The Chief Executive Officer
The Malawi Accountants Board
Bible House, Victoria Avenue
P. O. Box 2271
BLANTYRE

FORM 2

FEES

Matter						K	t
1. Audit firm registration..	..	..	..	..	..	1,000,000.00	
2. Audit firm annual retainership fee	..	..	..	..	..	300,000.00	
3. Audit firm re-registration	..	..	..	..	..	2,000,000.00	
4. Foreign audit firm once-off assignment registration	..	..	..	..	..	3,000,000.00	

Made this 16th day of June, 2021.

GOVERNMENT NOTICE NO. 46

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

PROFESSIONAL ACCOUNTANCY BODIES (AMENDMENT)
REGULATIONS, 2021

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Amendment of Cap 53:06 sub.leg. p.71
3. Amendment of regulation 8
4. Amendment of regulation 13
5. Amendment of regulation 14
6. Amendment of regulation 18
7. Replacement of Form 1 in the Schedule

IN EXERCISE of the powers conferred by section 57 of the Public Accountants and Auditors Act, I, FELIX LAFIEL MLUSU, the Minister of Finance, in consultation with the Malawi Accountants Board, make the following Regulations—

1. These Regulations may be cited as the Professional Accountancy Bodies (Amendment) Regulations, 2021. Citation

2. The Professional Accountancy Bodies Regulations (hereinafter referred to as the "principal Regulations") are amended in regulation 6 by— Amendment
of Cap. 53:03
sub. leg. p.71

(a) inserting, immediately after subregulation (4) a new subregulation (5) as follows—

"(5) A certificate of accreditation issued under subregulation (4) shall contain such terms and conditions as may be prescribed by the Board and shall be valid for the period stated therein.";

(b) numbering the old sub-regulations 5 and 6 as sub-regulations 6 and 7 accordingly.

3. The principal Regulations are amended in regulation 8 by—

(a) deleting subregulation (3) and replacing it with the following new subregulation (3)— Amendment
of
Regulation 8

"(3) The Board may impose the following administrative penalties to an accredited professional accountancy body which does not comply with the provisions of this Regulation and Regulation 7—

- (a) a written warning;
- (b) a monetary penalty of up K200,000;
- (c) suspension from administering examinations; or
- (d) revocation of certificate of accreditation.

(b) Inserting new sub-regulations (4) and (5) as follows—

“(4) A professional accountancy body that—

(a) does not comply with a monetary penalty imposed under subregulation (3); or

(b) administers exams where its certificate of accreditation has been suspended or revoked under subregulation (3),

commits an offence and shall, upon conviction, be liable to a fine of K200,000.

(5) Every Director of the professional accountancy body and principal officer charged with the day to day management of the affairs of the professional accountancy body shall be liable to the same fine prescribed under subregulation (4) and to imprisonment for a term of two years.

Amendment of
regulation 13

4. Regulation 13 of the principal Regulation is hereby amended by—

(a) renumbering current reg as sub reg (1); and

(b) inserting a new subregulation (2) as follows—

“(2) Every Director and principal officer charged with the day to day management of the professional accountancy body shall be liable to the fine prescribed under subregulation (1) and to imprisonment for a term of two years.

Amendment of
regulation 14

5. Regulation 14 of the principal Regulation is amended by inserting a new subregulation (5) (e) as follows—

“(e) order the accredited professional accountancy body to do or refrain from doing a specified action”.

Amendment of
regulation 18

6. Regulation 18 of the principal Regulation is amended—

(a) in subregulation (2), by inserting immediately after the words “the Board may”, the word “not”; and

(b) in subregulation (4) (b), by inserting immediately after the word “examination”, the word “passing”.

Replacement of
Form 1 in the
Schedule

7. Form 1 in the Schedule of the principal Regulations is hereby revoked and replaced with the new Form 1 in the Schedule hereto.

SCHEDULE

reg 6 (1)

FORM 1

APPLICATION FOR ACCREDITATION OF A PROFESSIONAL ACCOUNTANCY BODY

- A. Full Name of Professional Body.....
- Physical Address:
- Postal Address:
- Email Address:
- Contact Phone Numbers

B. The Professional Accountancy Body to provide proof of the following requirement—

- (i) That it is a member of the International Federation of Accountants and is in compliance with its membership obligations.
- (ii) That it has appropriate mechanisms for ensuring that its members participate in continuing professional development in line with international best practice.
- (iii) That it has mechanisms to ensure that its members are disciplined where appropriate.
- (iv) That it keeps a register of its members in the form prescribed by the organization and is in accessible form by MAB.
- (v) Proof of payment of application fee or annual retainership fee.

DECLARATION

1. I confirm that the information in this form is complete and true.
2. I acknowledge the role, duties and powers of the Malawi Accountants Board and agree to fully co-operate.

Name.....

Designation

Signature.....

Date:

Please send the duly completed form to:

The Chief Executive Officer
Malawi Accountants Board
Bible House
Victoria Avenue
P O Box 2271
BLANTYRE

Made this 16th day of June, 2021.

(FILE NO. SUB. D53:06)

F. L. MLUSU
Minister of Finance