

Malawi

## Chief's Act

### Chapter 22:03

Legislation as at 31 December 2014

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# Malawi

## Chief's Act

### Chapter 22:03

Assented to on 21 December 1967

Commenced on 29 December 1967

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

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

**An Act to make provision for the recognition, appointment and functions of Paramount Chiefs, Senior Chiefs, Chiefs, Sub-Chiefs, Councillors, Group Village Headmen and Village Headmen; and for certain aspects of District Administration and for matters incidental thereto or connected therewith**

#### Part I – Preliminary

##### 1. Short title

This Act may be cited as the Chief's Act.

##### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Chief**” means a person holding or acting in the office of Chief under this Act;

“**Chief's Council**” means a Council appointed under [section 13](#);

“**Chief's Messenger**” means a Messenger appointed under [section 18](#);

“**District Commissioner**” in relation to a Chief or Messenger means the District Commissioner of the District in which such Chief or Messenger holds office;

“**Group Village Headman**” means a person appointed to be a Group Village Headman under [section 9](#) and holding office as such;

“**Section**” means a portion of a District assigned or declared to be the area of jurisdiction of a Chief under this Act;

“**Sub-Chief**” means a person holding or acting in the office of Sub-Chief under this Act;

“**village**” means a collection of adjacent huts in which reside at least 30 male Malawians aged 18 years or over;

“**Village Headman**” means a person appointed to be a Village Headman under [section 9](#).

#### Part II – Chiefs

##### 3. Offices of Paramount Chief, Senior Chief, Chief and Sub-Chief and areas of their jurisdiction

- (1) There are hereby established the several offices of Paramount Chief, Senior Chief, Chief and Sub-Chief set out in the second, third and fourth columns respectively of the Schedule.

- (2) The areas of jurisdiction of the several offices of Paramount Chief, Senior Chief, Chief and Sub-Chief shall be the Districts, Sections of Districts and Sub-Sections of Districts specified in the first column of the Schedule opposite each such office.
- (3) The President may from time to time by Order declare or alter the boundaries of Sections and Sub-Sections and may create new offices of Paramount Chief, Senior Chief or Chief and assign to such offices such area of jurisdiction as he shall think proper and may, for those purposes, by such Order, amend the Schedule.
- (4) The certificate in writing of a District Commissioner of the situation of the boundary of any Section or Sub-Section in his District shall unless such certificate is inconsistent with an order made under subsection (3) be conclusive evidence for all purposes of the situation of such boundary.
- (5) No Paramount Chief, Senior Chief, Chief or Sub-Chief shall exercise jurisdiction within the area of a City, Municipality or Township except with the written approval of the appropriate Council established under the Local Government (Urban Areas) Act.

*[Cap. 22:01]*

*[39 of 1981]*

*[5 of 1999]*

#### **4. Appointments to the office of Paramount Chief, Senior Chief and Chief**

- (1) The President may by writing under his hand appoint to the office of Paramount Chief, Senior Chief or Chief such person as he shall recognize as being entitled to such office.
- (2) No person shall be recognized under this section unless the President is satisfied that such person—
  - (a) is entitled to hold office under customary law;
  - (b) has the support of the majority of the people in the area of jurisdiction of the office in question; and
  - (c) in the case of the office of Senior Chief, is a chief and is recognized by all chiefs in his district as being entitled under customary law prevailing in that district to be appointed Senior Chief.
- (3) The appointment of any person to the office of Senior Chief under subsection (1) shall not affect the status of the substantive office of Chief or in any way confer on that person additional jurisdiction to the jurisdiction which he had before being appointed Senior Chief.

*[5 of 1999]*

#### **5. Appointment of Sub-Chiefs**

At the request of a Chief the President may, by writing under his hand appoint any person to the office of Sub-Chief and may in such appointment or subsequently specify the boundaries of the area of jurisdiction of such Sub-Chief and may from time to time alter such boundaries.

#### **6. Functions of Paramount Chief**

The functions of the office of Paramount Chief shall be such as the President may specify in the appointment of the holder of such office or subsequently by writing under his hand.

## 7. Functions of Chief

Subject to such authority as may have been conferred on a Paramount Chief under [section 6](#) the functions of a Chief shall be—

- (a) to preserve the public peace;
- (b) to carry out the traditional functions of his office under customary law in so far as the discharge of such functions is not contrary to the Constitution or any written law and is not repugnant to natural justice or morality;
- (c) to assist in the collection of tax;
- (d) to assist in the general administration of the District in which his area of jurisdiction is situate and for such purpose to carry out such functions as the District Commissioner may require; and
- (e) for any of the purposes mentioned in paragraphs (a), (c) and (d) to carry out and enforce any lawful directions of the District Commissioner.

## 8. Functions of Sub-Chief

- (1) The functions of a Sub-Chief shall be such of the functions of the Chief to whom he is subordinate as shall be delegated to him by such Chief and so far as the traditional functions of the office of Chief are so delegated shall not extend to any function which under customary law may not be exercised by a person other than a Chief.
- (2) In carrying out such functions the Sub-Chief shall act in accordance with the general or special directions of the Chief to whom he is subordinate.

## 9. Appointment and functions of Group Village Headman and Village Headmen

- (1) A Chief may appoint such number of Group Village Headmen and Village Headmen as he may consider necessary to assist him in carrying out his functions.
- (2) The functions of a Group Village Headman and a Village Headman shall be to assist the Chief or Sub-Chief by whom he is appointed in the performance of his functions and to bring to the notice of that Chief or Sub-Chief any matter in his village or group of villages which is relevant to such functions.
- (3) The remuneration, if any, to be paid to a Group Village Headman or Village Headman shall be such sum as may be approved by the District Commissioner of the District in which the village or group of villages is situated.

## 10. Acting appointments

- (1) If the President considers that through age, infirmity or any other reason the holder of an office of Paramount Chief, Senior Chief, Chief or Sub-Chief is unable to fulfil the functions of his office satisfactorily he may appoint such other person to act in that office as he may think fit and the person so appointed shall carry out all the functions of the office accordingly.
- (2) During the period of such acting appointment the substantive holder of the office shall not carry out any of the functions of the office.

*[5 of 1999]*

## 11. Removal and suspension of persons holding the office of Paramount Chief, Senior Chief, Chief and Sub-Chief

- (1) The President may by writing under his hand remove any person from the office of Paramount Chief, Senior Chief, Chief or Sub-Chief if after due inquiry he is satisfied that—
  - (a) the person has ceased to be entitled under customary law to hold such office;
  - (b) the person has lost the confidence of the majority of the people residing in his area; or
  - (c) such removal is necessary in the interests of peace, order and good government.
- (2) Where the President deems it expedient to cause inquiry to be made into the question of the removal of any person from the office of Paramount Chief, Senior Chief, Chief or Sub-Chief, he may by writing under his hand suspend such person from the performance of the functions of his office.

*[5 of 1999]*

## 12. Inquiries

The President may appoint persons to inquire into any question relating to the appointment to or removal from the office of Paramount Chief, Senior Chief, Chief or Sub-Chief of any person and to report and make recommendations thereon to the President.

*[5 of 1999]*

## 13. Appointment of Chief's Council

- (1) Where the President has removed a person from the office of Chief and is of the opinion that no other person is suitable for appointment to such office, he may appoint, by writing under his hand, a Chief's Council to perform the functions of such office.
- (2) A Chief's Council shall consist of a Chairman and three or more members all of whom shall be appointed by name. The President may, from time to time, terminate the appointment of any Chairman or member of a Council and appoint another person in place of the person whose appointment is terminated or in addition to the existing members of the Council.
- (3) A Chief's Council shall perform all the functions of the office of Chief until a person is appointed to hold such office under [section 4](#).

## 14. Appointment of advisers by Paramount Chiefs, Senior Chiefs, Chiefs and Sub-Chiefs

A Paramount Chief, Senior Chief, Chief and Sub-Chief may, in accordance with customary law, appoint advisers to advise him in the exercise of his functions. Such advisers shall be known as Counsellors and shall serve in an honorary capacity and shall not be entitled to any remuneration.

*[5 of 1999]*

## 15. Exclusion of former Paramount Chiefs, Senior Chiefs, Chiefs or Sub-Chiefs from specified area

- (1) Where any Paramount Chief, Senior Chief, Chief or Sub-Chief has been removed from office and the President is satisfied that the presence of such person in any area would be prejudicial to the maintenance of public order in that area, the President may, by notice under his hand, prohibit such person from being within any area specified in the notice, except in such circumstances and on such conditions, if any, as may be specified in the notice.
- (2) A notice under this section shall be served personally on the person to whom it relates or, if he cannot be found, shall be published in the *Gazette*.

- (3) Any person who contravenes the provisions of a notice served or published under this section shall, for every such contravention, be liable to imprisonment for six months.

*[5 of 1999]*

## **16. Emoluments and pensions of Chiefs**

- (1) There shall be paid to every Paramount Chief, Senior Chief, Chief, Sub-Chief and Chairman of a Chief's Council for the purpose of enabling him to maintain the status and to carry out the functions of his office in a fit and proper manner such remuneration as the President may from time to time determine.
- (2) There may be paid to any Paramount Chief, Senior Chief, Chief or Sub-Chief who may voluntarily have retired or who may have been removed from office, such pension as the President may determine.

*[5 of 1999]*

## **Part III – Chiefs' staff**

### **17. Interpretation**

In this Part and in Part IV the word "Chief" shall be deemed to include a Paramount Chief, a Senior Chief, a Chief's Council and a Sub-Chief.

*[5 of 1999]*

### **18. Tax clerks and messengers**

- (1) There shall be appointed to serve every Chief in the discharge of the functions of his office, a tax clerk and such number of chief's messengers as the District Commissioner may determine.
- (2) Power to appoint, suspend or remove any person to or from the office of tax clerk or chief's messenger and to exercise disciplinary control over the person holding any such office shall be vested in the District Commissioner of the district in which such person holds office.

### **19. Functions of tax clerk**

The functions of a tax clerk shall be to assist the Chief whom he is appointed to serve in the discharge of the functions of his office and to carry out such duties in relation to the collection of tax and other administrative matters as a District Commissioner may direct.

### **20. Functions and duties of Chief's Messenger**

- (1) A Chief's Messenger shall assist the Chief whom he is appointed to serve in the performance of the functions of his office.
- (2) For the purposes specified in subsection (1) every Chief's Messenger shall have and may exercise all powers, rights, duties and protection for the time being conferred or imposed upon or afforded to police officers under the rank of Inspector by any written law. Where in connexion with any such power, right, duty or protection reference is made in any written law to the superior officer of a police officer, such reference shall be construed in relation to a Chief's Messenger as being a reference to the Chief to whom such messenger is attached or to the District Commissioner.
- (3) In addition to any other duties imposed upon him by this Act or any other law, a Chief's Messenger shall—
  - (a) obey and execute promptly all orders, duties or instructions issued to or imposed upon him by a Chief or District Commissioner;

- (b) report to the Chief to whom he is attached all matters which may directly or indirectly come to his knowledge affecting the general public interest of Malawi;
- (c) at all times do, subject to the general or specific directions of a Chief or District Commissioner, all such things as are lawful and which it is necessary for him to do for the better administration of the area or to preserve the public peace and prevent the commission of an offence; and
- (d) undergo such training as may be ordered by the District Commissioner.

## Part IV – Preservation of public peace

### 21. Preservation of public peace

- (1) Whenever a riot, affray or similar disorder occurs in any District, a Chief's Messenger, on the directions of the District Commissioner or of the Chief whom he is appointed to serve, may, when in uniform—
  - (a) require any male person in the vicinity to assist him in quelling the riot, affray or disorder;
  - (b) arrest, without warrant, any person upon reasonable suspicion of his having committed an offence in connexion with the riot, affray or disorder and detain any person so arrested until he can be delivered into the custody of a police officer or brought before a court of competent jurisdiction to be dealt with according to law.
- (2) Any person required under subsection (1) (d) to assist a messenger who, without reasonable excuse, refuses or fails to do so, shall be liable to a fine of £25 and to imprisonment for three months.

## Part V – General

### 22. Offences and penalties

Any person who—

- (a) not being the holder of an office of Paramount Chief, Senior Chief, Chief or Sub-Chief holds himself out to be such or purports to discharge any of the functions of the office of Paramount Chief, Senior Chief, Chief or Sub-Chief;
- (b) conspires against or in any manner attempts to undermine the lawful power or authority of a Paramount Chief, Senior Chief, Chief, Sub-Chief or Chief's Council;
- (c) obstructs or interferes with the lawful discharge by a Paramount Chief, Senior Chief, Chief, Sub-Chief or Chief's Council of any of the functions of his office; or
- (d) wilfully disobeys any lawful instruction or direction, whether written or verbal, of a Paramount Chief, Senior Chief, Chief, Sub-Chief or Chief's Council, shall be liable—
  - (i) for a contravention of paragraph (a) or (b), to a fine of £100 and to imprisonment for one year;
  - (ii) for a contravention of paragraph (c) or (d) to a fine of £25 and to imprisonment for three months.

[5 of 1999]

### 23. Arrest without warrant

Whenever any person is reasonably suspected of an offence against [section 15](#), he may be arrested without warrant by a District Messenger or Chief's Messenger, and may be detained until he can be delivered



into the custody of a police officer or brought before a court of competent jurisdiction to be dealt with according to law.

#### **24. Emoluments and conditions of service of tax clerks and Chief's Messengers**

- (1) The emoluments and conditions of service of tax clerks and Chief's Messengers shall be such as may be prescribed by the Minister.
- (2) The Minister may from time to time make rules prescribing the emoluments and the terms and conditions of service of tax clerks and Chief's Messengers.

#### **25. Unusual expenses of Paramount Chiefs, Senior Chiefs, Chiefs and Sub-Chiefs**

A District Commissioner may, by way of allowance, reimburse to a Paramount Chief, Senior Chief, Chief, Sub-Chief or Chairman of a Chief's Council any expenses incurred in the exercise of his functions under this Act which in the opinion of the District Commissioner were properly incurred and are in excess of the provision made in the amount of the emoluments of the holder of the office concerned.

*[5 of 1999]*

#### **26. Payments under this Act**

All emoluments and allowances for expenses payable under this Act shall be paid out of moneys provided by Parliament for the purpose.

#### **27. Saving**

- (1) A person who, immediately before the commencement of this Act, was recognized as a Paramount Chief, Chief or Sub-Chief under the Native Authority Ordinance 1955 (now repealed) shall be deemed to have been appointed to the corresponding office under this Act.
- (2) A reference in any written law to a Native Authority or a Native Authority area shall be construed as a reference to the corresponding office of Chief or the area of jurisdiction of the corresponding office of Chief established by this Act.
- (3) The boundaries assigned to a Section or Sub-Section prior to the coming into operation of this Act shall, until altered under this Act, continue to be the boundaries of the corresponding Section or Sub-Section established by this Act.

*[13 of 1999]*

### Schedule

Areas	Paramount Chiefs	Chiefs	Sub-Chiefs
Southern Region			
Nsanje District			
Section 1		Mlolo	
Section 2		Tengani	
Sub-Section 2A			Mbenje
Section 3		Chimombo	
Sub-Section 3A			Makoko
Section 4		Ndamera	
Section 5		Nyachikadza	
Section 6		Malemia	
Section 7		Ngabu	
Chikhwawa District	Lundu		
Section 1		Nganu	
Sub-Section 1A			Masache
Section 2		Chapananga	
Sub-Section 2A			Ndakwera
Section 3		Makwira	
Section 4			Kasisi

Section 5			Katunga
Section 6			Masseah
Section 7			Ngowe
Thyolo District			
Section 1	Nsabwe		
Sub-Section 1A			Thukuta
Sub-Section 1B			Mbawela
Section 2		Changata	
Sub-Section 2B			Kwetemule
Section 3		Kapichi	
Section 4		Nchilamwela	
Section 5		Chimaliro	
Sub-Section 5A			Nanseta
Section 6		Bvumbwe	
Section 7		Thomas	
Section 8		Mphuka	
Mulanje District			
Section 1	Mabuka		
Sub-Section 1A			Laston Njema
Section 2		Chikumbu	
Section 3		Nthitamanja	

Sub-Section 3A			Juma
Section 4		Mkanda	
Section 5		Nkhumba	
Section 6		Nazombe	
Blantyre District			
Section 1		Lundu	
Section 2		Chigaru	
Section 3		Kunthembwe	
Section 4		Makata	
Section 5		Kapeni	
Section 6		Kuntaja	
Section 7		Machinjiri	
Section 8		Somba	
Chiradzulu District			
Section 1		Mpama	
Section 2		Nkalo	
Section 3		Kadewere	
Section 4		Nchemba	
Section 5		Chitera	
Section 6		Likoswe	
Zomba District			

Section 1		Kumtumanji	
Section 2		Mwambo	
Section 3		Chikowi	
Sub-Section 3A			Mbiza
Sub-Section 3B			Ntholowa
Sub-Section 3C			Ngwelero
Section 4		Mlumbe	
Section 5		Malemia	
Section 6		Mkumbira	
Machinga District			
Section 1		Liwonde	
Sub-Section 1A		Sitola	
Section 2		Kawinga	
Sub-Section 2A			Mlomba
Sub-Section 2B			Chikwewo
Sub-Section 2C			Chiwalo
Sub-Section 2D			Ngokwe
Sub-Section 2E			Nkoola
Sub-Section 2F			Chamba
Section 3		Msamala	
Section 4		Kalembo	

Section 5		Nyambi	
Section 6		Mposa	
Mangochi District			
Section 1		Mponda	
Section 2		Nankumba	
Section 3		Jalasi	
Sub-Section 3A			Chowe
Sub-Section 3B			Mbwana Nyambi
Section 4		Katuli	
Section 5		Makanjila	
Sub-Section 5A			Namavi
Section 6		Chimwala	
Mwanza District			
Section 1		Dambe	
Section 2		Nthache	
Section 3		Simon Likongwe	
Section 4		Kanduku	
Section 5		Mlauli	
Section 6		Ngozi	
Neno District			
Section 4		Cheku Cheku	

Central Region			
Lilongwe District			
Section 1		Khongoni	
Sub-Section 1A			Mtema
Section 2		Chitukula	
Section 3		Chimutu	
Section 4		Mazengerera	
Sub-Section 4A			Chitekwere
Section 5		Kalumbu	
Sub-Section 5A			Tsabango
Section 6		Chadza-Mkwenda	
Section 7		Chiseka	
Section 8		Kalumba	
Sub-Section 8A			Njewa
Section 9		Kalolo	
Section 10		Kabudula	
Section 11		Malili	
Mchinji District			
Section 1		Mkanda	
Section 2		Zulu	

Sub-Section 2A			Mduwa
Section 3		Mlonyeni	
Sub-Section 3A			Mavwere
Section 4		Dambe	
Dedza District			
Section 1		Kachere	
Sub-Section 1A			Chilikumwendo
Section 2		Kaphuka	
Section 3		Tambala	
Sub-Section 3A			Chauma
Section 4		Kasumbu	
Section 5		Kachindamoto	
Sub-Section 5A			Kamenya Gwaza
Dowa District			
Section 1		Dzoole	
Sub-Section 1A			Kayembe
Sub-Section 1			Chakaza
Section 2		Msakambewa	
Sub-Section 2A			Mponela
Section 3		Chiwere	
Sub-Section 3A			Mkukula



Salima District			
Section 1		Khombedza	
Sub-Section 1A			Mwanza
Section 2		Kuluunda	
Sub-Section 2A			Msosa
Section 3		Maganga	
Section 4		Karonga	
Section 5		Pemba	
Sub-Section 5A			Kambwiri
Section 6		Ndindi	
Sub-Section 6A			
Ntcheu District	Gomani		
Section 1		Kwataine	
Section 2		Mambeya	
Section 3		Njolomole	
Section 4		Phambala	
Section 5		Mpando	
Section 6		Masasa	
Section 7		N'ganya	
Section 8		Makwangwala	
Section 9		Champiti	

Kasungu District			
Section 1		Kaluluma	
Sub-Section 1A			Simlemba
Sub-Section 1B			Maaanyanja
Sub-Section 1C			Chisikwa
Section 2		Mwase	
Sub-Section 2A			Kawamba
Sub-Section 2B			Chilowa Matambe
Sub-Section 2C			Njombwa
Section 3		Chulu	
Section 4		Santhe	
Section 5		Santhe Wimbe	
Section 6		Kapelula	
Nkhotakota District			
Section 1		Kanyenda	
Sub-section 1A			Kafuzila
Section 2		Malenga-Chanzi	
Sub-section 2A			Mponde
Section 3		Mwadzama	
Sub-section 3A			Mwansambo
Ntchisi District			

Section 1		Kasakula	
Section 2		Chikho	
Section 3		Kalumo	
Sub-section 3A			Nthondo
Sub-section 3B		Chiloko	
Northern Region			
Karonga District			
Section 1		Kyungu	
Sub-Section 1A			Karonga
Section 2		Mwafulirwa	
Sub-Section 2A			Mwirang'ombe
Section 3		Kilupula	
Sub-Section 3A			Mwakaboko
Chitipa District			
Section 1		Mwenemisuku	
Section 2		Kameme	
Section 3		Mwenewenya	
Section 4		Nthalire	
Section 5		Mwaulambya	
Rumphi District			
Section 1		Chikulamayembe	

Sub-Section 1A			Mwahenga
Sub-Section 1B			Mwalweni
Sub-Section 1C			Mwankunikila
Sub-Section 1D			Chapinduka
Sub-Section 1E			Kachulu
Section 2		Katumbi	
Sub-Section 2A			Zolokere
Section 3		Mwamlowe	
Mzimba District	M'mbelwa		
Section 1		Mtwalo	
Sub-Section 1A			Sibande
Sub-Section 1B			Munthali
Section 2		Chindi	
Section 3		Mzikubola	
Section 4		Mabulabo	
Sub-Section 4A			Khosolo Jere
Section 5		Mpherembe	
Section 6		Mzukuzuku	
Nkhata Bay District			
Section 1		Musisya	
Sub-Section 1A			Mkondowe

Sub-Section 1B			Nyaluwanga
Section 2		Boghoyo	
Section 3		Mankhambira	
Sub-Section 3A			Mkumbira
Sub-Section 3B			Fukamalaza
Section 4		Kabunduli	
Section 5		Mkumpha	
Section 6		Timbiri	
Section 7		Fukamapiri	
Section 8		Malenga-Mzoma	
Section 9		Zilakoma	
Section 10		Malanda	