

Malawi

Local Land Boards Act

Chapter 59:02

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Local Land Boards Act
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Malawi

Local Land Boards Act

Chapter 59:02

Commenced on 9 May 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 provide for the Establishment and powers of Local Land Boards, and for matters incidental thereto and connected therewith

Part I – Preliminary

1. Short title

This Act may be cited as the Local Land Boards Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means a Local Land Board appointed by the Minister under [section 4](#);

“**Division**” means a Land Control Division declared by the Minister in accordance with [section 3](#);

“**family land**” means land of which the proprietor is registered as family representative under the Registered Land Act;

[Cap. 58:01]

“**interest in land**” means any right or interest in or over land which is capable of being registered under the Registered Land Act;

[Cap. 58:01]

“**land**” includes land covered with water, all things growing on land, and buildings and other things permanently fixed to land;

“**Registrar**” means the Land Registrar or Assistant Registrar in charge of the Registry established under the Registered Land Act for the registration district in which the Land Control Division is situated.

[Cap. 58:01]

3. Application

The Minister may, by order, declare that a land registration district constituted, under the Registered Land Act shall be a Land Control Division for the purposes of this Act.

[Cap. 58:01]

4. Local Land Boards

(1) There shall be established for each Division a Local Land Board which shall consist of—

(a) the District Commissioner in whose District the Division is situated, who shall be Chairman;

- (b) not more than two public officers appointed by name or by office by the Minister;
 - (c) two persons appointed by the Chiefs of the Division; and
 - (d) such number of persons, being not less than five nor more than nine, as the Minister shall appoint, from residents within the Division.
- (2) The Registrar shall be the executive officer of the Board, who shall attend and may speak at any meeting of the Committee, but shall not vote.
 - (3) A member of the Board who fails to attend three consecutive meetings of the Board without proper cause shall, if the Board so recommends to the Minister and the Minister so approves, cease to be a member of the Board.
 - (4) A member of the Board appointed pursuant to paragraphs (b), (c) or (d) of subsection (1) may at any time resign his membership by giving notice in writing to the Minister, and from the date specified in the notice he shall cease to be a member of the Board.

[6 of 1987]

5. Board procedure

- (1) The Chairman shall preside at all meetings of a Board at which he is present and, if he is absent, the members of the Board present at a meeting shall elect one of themselves to preside at that meeting.
- (2)
 - (a) The quorum of a Board, where the total number of members of the Board is an even number, shall be one-half of that number and, where the total number of members is an uneven number, shall be one-half of the even number that is greater than that number by one.
 - (b) In the event of an equality of votes the Chairman or other member presiding shall have a casting as well as an original vote.
- (3) If a member of the Board has an interest, direct or indirect, in any matter before the Board, and is present at a meeting of the Board at which the matter is under consideration, he shall, at the meeting, as soon as practicable after its commencement, disclose the fact and shall not take part in the consideration or discussion of, or vote on any question with respect to, the determination of that matter.
- (4) The Board may require the attendance of any party to, or any person interested in or affected by, any matter before the Board and may demand the production of any document or other evidence relating to the matter.
- (5) Where any person whose presence is required is not present, or any document, the production of which has been demanded, is not produced, the Board may postpone hearing the matter to give a reasonable opportunity for the appearance of such person or the production of such document.

Part II – Consent to transactions

6. Restriction on land transactions

- (1) No person shall, in respect of land situate in a Division, except with the consent of the Board, or by virtue of a general consent given by the Minister in accordance with [section 7](#)—
 - (a) sell, lease, charge, exchange, partition, subdivide or in any way dispose of or deal with any such land or any interest in such land; or
 - (b) acquire any such land or any interest in such land (otherwise than by prescription) on behalf of himself or on behalf of any other person:

Provided that nothing in this subsection shall apply to—

- (i) a transmission (within the meaning of the Registered Land Act) any such land or of an interest in any such land on the death of the owner, unless such transmission involves a subdivision of the land;
[Cap. 58:01]
 - (ii) any transaction made by or in favour of the Government.
- (2) Any agreement for sale, leave, charge, exchange, partition or subdivision or for any other transaction to which subsection (1) applies, shall be unenforceable—
- (a) subject to subsection (3), if the Board has refused its consent thereto, as from the date of such refusal; or
 - (b) if the application to the Board for its consent thereto has not been made within a period of thirty days from the date of the making of such agreement, as from the expiry of such period,
- and if any money or other valuable consideration has been paid under any agreement which becomes unenforceable as aforesaid, such money or consideration shall be a civil debt recoverable from the person to whom it has been paid by the person who paid the same.
- (3) Notwithstanding subsection (2), when the consent of a Board to any dealing has been refused and such refusal is reversed by Order of the Minister upon review under [section 13](#), then any agreement which has become unenforceable by reason of subsection (2), shall, subject to any conditions in the Order, be enforceable.

7. General consent and no consent

- (1) The Minister may, by order—
- (a) give general consent in respect of all transactions or of any specified class of transaction in a Division or part of a Division;
 - (b) direct the Board that consent shall not be given to any transactions in a part of a Division or to any class of transaction in the Division or part of a Division.
- (2) A copy of every order under subsection (1) shall be sent to the Registrar and to the District Commissioner of the District in which the land to which it relates is situated.
- (3) An order under this section need not be published in the *Gazette* but shall be published in the Division or part of the Division to which it relates in such manner as the District Commissioner considers will bring it to the knowledge of the persons likely to be affected by the order.

8. Submission and disposal of applications

- (1) Every application for consent under this Act shall be made in duplicate in the prescribed form, shall be signed by the applicant or by a person lawfully authorized to act on his behalf and shall be submitted to the appropriate board through the Registrar.
- (2) Every decision of a Board shall be noted on the application to which it relates together with—
- (a) the reasons for refusal where consent has been refused; or
 - (b) any conditions which may have been imposed where consent has been granted.
- (3) One copy shall be returned to the applicant and the other shall be sent to the Registrar.

9. Consent upon condition

A Board may, in granting consent, impose such conditions not inconsistent with the Registered Land Act as the Board thinks fit.

[Cap. 58:01]

Part III – Family land matters

10. Partition of family land

- (1) When an application made under section 101 of the Registered Land Act for the partition of family land has been referred to the Board by the Registrar, the Board shall first ascertain the names of the members of the family entitled to a share of the land and the size of each such share, and then shall effect the partition of the land with the agreement of the members or in the absence of agreement in such manner as the Board may order having due regard to the rules of customary law affecting the land.
- (2) Sections 98, 99 and 100 of the Registered Land Act (which relate to the partition of land owned in common, when the Registrar may order sale and the procedure where a share is small) shall apply with necessary modifications and the Board shall perform the duties and exercise the powers of the Registrar provided for in those sections as if the members of the family entitled to a share of the land were proprietors in common.
- (3) The partition agreement or order when completed shall be forwarded to the Registrar.

[Cap. 58:01]

11. Replacement of family representative

- (1) Where the Registrar has made reference to a Board under section 122 of the Registered Land Act for the replacement of a family representative, then, on proof to the satisfaction of the Board—
 - (a) of the death of the family representative;
 - (b) that the family representative is unable to act by reason of mental or physical incapacity, absence from Malawi, imprisonment or detention; or
 - (c) that the family representative is no longer acceptable to the majority of the members of the family,the Board shall nominate a new family representative.
- (2) In nominating a new family representative the Board shall have due regard to the wishes of the members of the family and any custom affecting the land.
- (3) The nomination of a new family representative shall be reported by the Board to the Registrar in writing.

[Cap. 58:01]

Part IV – Other powers of the Board

12. Land use

The Board shall perform such functions in relation to the powers of control of user of land vested in the Minister by Part VI of the Land Act as may be conferred upon the Board by regulations, directions or instructions issued by the Minister under such Part.

[Cap. 57:01]

Part V – Miscellaneous

13. Review

- (1) Any person whose application for consent to any transaction has been refused by the Board, or who considers himself adversely affected by a condition imposed by the Board in granting consent or by a decision of the Board given under [section 10](#) or [section 11](#) may, within fifteen days of such refusal, by notice in writing, require the Board to refer the matter for review by the Minister.
- (2) Upon receipt of such notice, or of a notice by the Minister that the Minister intends to review a decision of the Board, the Board shall forthwith refer the matter for review by the Minister, who shall review the matter and make such order therein as he thinks fit.
- (3) [Section 5](#) (4) and (5) shall, with any necessary modifications, apply to a review under this section as they apply to the hearing of an application or other proceeding before the Board.

14. Offences

- (1) Any person who takes part or attempts to take part in a transaction which is unenforceable under [section 6](#) or aids or abets such transaction or who contravenes a condition imposed by the Board or the Minister shall be liable to a fine of K200 and to imprisonment for one year.
- (2) A court which convicts a person under subsection (1), shall have the power to order the eviction of such person from any land occupied by him in pursuance of an unenforceable transaction or as a result of a contravention of a condition imposed by a Board or the Minister.
- (3) Any person who is required to attend before the Board or the Minister or produce any document or other evidence, and who fails to attend or produce such document or other evidence, shall be liable to a fine of K40 and to imprisonment for three months.

15. Regulations

The Minister may make regulations for the better carrying out of this Act.