

Malawi

Malawi Road Transporters Authority Act Chapter 69:05

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Malawi Road Transporters Authority Act

Contents

1. Short title	1
2. Interpretation	1
3. Establishment of the Authority	1
4. Constitution and proceedings of Authority	1
5. Appointment etc. of staff	2
6. Legal proceeding	2
7. Funds of the Authority	3
8. Purposes and functions of the Authority	3
9. Transfer of assets, etc., of Malawi African Road Transporters Association Ltd.	4
10. Regulations	5
11. Saving	5

Malawi

Malawi Road Transporters Authority Act

Chapter 69:05

Assented to on 1 April 1970

Commenced on 1 April 1970

[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 of the Malawi Road Transporters Authority; to vest in the Authority certain assets and liabilities; to confer or impose powers and duties on the Authority; and to provide for matters incidental to or connected with the foregoing

1. Short title

This Act may be cited as the Malawi Road Transporters Authority Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**approved transporter**" means a Malawi African road transport operator, approved by the Authority for the purposes of this Act, and registered in the books of the Authority as an approved transporter;

"**Authority**" means the Malawi Road Transporters Authority established under [section 3](#).

3. Establishment of the Authority

- (1) There is hereby established a body to be known as the Malawi Road Transporters Authority, which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name, and, subject to this Act, of purchasing, holding, acquiring and disposing of movable and immovable property and doing all such acts and things as corporate bodies may by law do and perform.
- (2) In the exercise of its powers or the performance of its functions under this Act the Authority shall be subject to any special or general directions of the Minister.

4. Constitution and proceedings of Authority

- (1) The Authority shall consist of the following members who shall be appointed by the Minister for a term of two years and be eligible for reappointment—
 - (a) a Chairman;
 - (b) a Deputy Chairman;
 - (c) two members appointed by the Minister in his discretion;
 - (d) a representative of the Malawi Development Corporation;
 - (e) a representative of the Agricultural Development and Marketing Corporation;
 - (f) a representative of the Ministry; and
 - (g) two members to represent approved transporters.

- (2) At any meeting of the Authority the Chairman shall preside, but if at any meeting the Chairman is not present, the Deputy Chairman shall act as Chairman, or if the Deputy Chairman is also not present the members present and forming a quorum shall elect one of their number to act as Chairman for that meeting.
- (3) The Authority shall meet at such times and at such places as may be necessary or expedient for the transaction of business.
- (4) At any meeting of the Board any five members thereof shall form a quorum.
- (5) Decisions of the Authority shall be decided by a majority of the members present and voting on the matter in question, and in the event of an equality of votes the Chairman at that meeting shall have a casting vote in addition to his deliberative vote.
- (6) Minutes in proper form of each meeting of the Authority shall be kept and shall be confirmed by the Authority at the next meeting and signed by the Chairman of such next meeting.
- (7) The Authority may in its discretion invite any person to attend a meeting of the Authority, and such person may, with the consent of the Chairman of that meeting, speak but shall have no power to vote.
- (8) Any member of the Authority may at any time resign by giving notice in writing to the Minister, and from the date specified in the notice, or from the expiration of seven days after receipt of the notice by the Minister, whichever is the later, he shall cease to be a member of the Authority.
- (9) Subject to this section and any special or general directions given by the Minister the Authority may regulate its own procedure.
- (10) No member of the Authority, in his capacity as such, shall be personally liable for anything done, or omitted to be done, by him in good faith under this Act.

[8 of 1980]

5. Appointment etc. of staff

- (1) The Authority shall, with the approval of the Minister, appoint a General Manager who shall be responsible for the day to day running of the business of the Authority, and appoint or employ such other persons as may be necessary for the proper conduct of the Authority's business.
- (2) The General Manager and other persons appointed or employed under this section shall be paid from the funds of the Authority such remuneration and allowances, and shall be subject to such conditions of employment, as the Authority, with the approval of the Minister, shall determine.
- (3) The power to dismiss or discipline the General Manager and other persons appointed or employed under this section shall vest in the Minister, but the Minister may delegate such power to the Authority or the General Manager subject to such general or specific limitations or directions as the Minister may, from time to time, specify.
- (4) The Authority may appoint from among its members a committee or committees, of such composition and with such powers as the Board may determine, for the purpose of assisting or advising the General Manager in his day to day running of the business of the Authority.

6. Legal proceeding

In any action, suit or prosecution by or against the Authority, the Authority may appear by its General Manager, or by any other person appointed or employed by the Authority and authorized by the General Manager in writing in that behalf.

7. Funds of the Authority

- (1) The funds and resources of the Authority shall consist of—
 - (a) such assets as may be transferred to the Authority by virtue of [section 9](#);
 - (b) such sums as may be provided by Parliament for the purposes of this Act;
 - (c) any sums levied in respect of services or facilities rendered or offered by the Authority;
 - (d) any sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the carrying out of its functions.
- (2) The funds and resources of the Authority however derived shall be applied solely towards the promotion of the purposes of the Authority.

8. Purposes and functions of the Authority

- (1) The purposes and functions of the Authority shall be—
 - (a) to promote, foster and protect the interests of approved transporters and of the road transport industry in Malawi;
 - (b) to collect and disseminate information of a technical or nontechnical nature among approved transporters; to establish a place or places of meeting for the use of approved transporters for business or leisure purposes; to be a medium of communication between approved transporters and provide for discussion between them with a view to promoting the interests of both the road transport industry and such approved transporters;
 - (c) to encourage the growth and development of the road transport industry by advertising and by organizing or participating in shows or displays, rallies, meetings, demonstrations and exhibitions open to the public or otherwise;
 - (d) to improve the standard of road transport by organizing lectures, courses or classes for approved transporters or their staffs and establish funds, bursaries and scholarships for further education in Malawi or abroad of persons employed or intending to be employed in the industry;
 - (e) to negotiate with and make representations to Government and local authorities for the improvement and maintenance in good condition of roads, bridges and ferries;
 - (f) to assist individual approved transporters to establish or improve their business and for this purpose to make loans to approved transporters and to guarantee payments for the performance of contracts by them;
 - (g) with a view to providing improved facilities for approved transporters, to act as agent or dealer in all types of plant, equipment, vehicles, tyres, spare parts, accessories, fuels, lubricants and materials and establish and maintain workshops and garages for the sale thereof and for repair or maintenance of approved transporters' vehicles, plant and equipment;
 - (h) to carry on the business of road transporters and carriers and of warehousemen;
 - (i) to carry on any trade, business or agency which can be conveniently carried on in connexion with the purposes of the Authority or calculated directly or indirectly to promote or assist such purposes or enhance the value of or render profitable any of the Authority's property or rights;
 - (j) to acquire and carry on the whole or any part of the business, property, assets and liabilities of any person, company or association carrying on any business or undertaking which the Authority is authorized to carry on, or possessed of property suitable for the purpose of the

Authority, and to co-operate, collaborate or affiliate with any body or bodies having objects similar to those of the Authority;

- (k) to apply for, purchase, take on lease or exchange, hire or otherwise acquire any movable and immovable property and any rights or privileges which the Authority may think right or necessary or convenient for the purpose of its business or businesses, and in particular any land, buildings, easements, water rights, machinery, vehicles, vessels, plant, equipment and stock in trade and any patents, patent rights, inventions and concessions and to take or otherwise acquire and hold any shares, stock, debentures or obligation in any company;
 - (l) to borrow and secure the payment of money in such manner and on such terms as the Authority may deem expedient and to mortgage or charge all or any part of the property and rights of the Authority, present or future;
 - (m) to make, draw, endorse, negotiate, discount, buy, sell and deal in bills, notes and other negotiable or transferable instruments;
 - (n) sell, improve, manage, exchange, let, develop, dispose of, turn to account or otherwise deal with all or any part of the property and rights of the Authority;
 - (o) to remunerate or make donations to any person or persons whether members, officers or agents of the Authority or not, for services rendered or to be rendered in or about the conduct of the Authority's business;
 - (p) to establish and support funds or institutions calculated to benefit employees or ex-employees of the Authority or the dependants of such persons and to grant pensions and allowances and subscribe or guarantee money for similar charitable objects;
 - (q) to invest and deal with the moneys of the Authority not immediately required upon such securities and in such a manner as may from time to time be determined by the Minister, with the approval of the Minister for the time being responsible for finance.
- (2) In carrying out its purposes and functions under this Act the Authority shall comply with the provisions of any other relevant written law.

9. Transfer of assets, etc., of Malawi African Road Transporters Association Ltd.

- (1) The assets, rights, liabilities and obligations which, immediately before the date of the coming into operation of this Act, were vested in or incurred by the Malawi African Road Transporters Association Ltd., a company established and registered under the Companies Act, are hereby transferred to and vested in the Authority.
- (2) All bonds, charges, agreements, contracts, instruments and working arrangements creating or giving rise or relating to or connected with the assets, rights, liabilities and obligations referred to in subsection (1), which were subsisting immediately before the date of the coming into operation of this Act, shall on that date become of as full force and effect against or in favour of the Authority and enforceable as fully and effectively as if, instead of the said Association, the Authority had been named therein and had been a party thereto.
- (3) All proceedings or causes of action relating to or connected with any asset, right, liability or obligation referred to in subsection (1) or arising out of a bond, charge, agreement, contract, instrument or working arrangement referred to in subsection (2), which were pending or existing immediately before the date of the coming into operation of this Act by or against the said Association, may be continued or enforced by or against the Authority as they might have been by or against the said Association if this Act had not come into operation.
- (4) In respect of any immovable property which immediately before the coming into operation of this Act, was vested in the said Association, the Deeds Registrar may make the necessary amendments in the register kept by him under the Deeds Registration Act to record the vesting in the Authority effected by this section.

[Cap. 58:02]

- (5) The Minister may by order provide for any other matters which appear to him to be necessary or expedient for the purpose of securing the effective transfer of any assets or liabilities vesting or to be vested in the Authority by virtue of this Act.

[Cap. 46:03]

10. Regulations

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

11. Saving

The provisional Authority appointed before the coming into force of this Act to take over the affairs and the running of the Malawi African Road Transporters Association Ltd., shall, until the appointment of the Authority under this Act, be deemed to be the Authority appointed under this Act, and any act or thing done or performed by such provisional Authority shall, in so far as it is not inconsistent, be deemed to have been done or performed under the powers conferred under this Act, even though done or performed before the coming into operation of this Act.