

Malawi

Change of Name (Restriction) Act Chapter 24:02

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Change of Name (Restriction) Act
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Malawi

Change of Name (Restriction) Act Chapter 24:02

Assented to on 31 December 1971

Commenced on 1 February 1972

[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 certain restrictions on the assumption and use by persons of names other than those by which they are ordinarily known on certain stated days and for matters related or incidental to such purpose

1. Short title

This Act may be cited as the Change of Name (Restriction) Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**application**” means an application to the Minister under [section 5](#) for approval to assume or use a name other than that by which the person to whom the application relates was ordinarily known on the operative date;

“**appointed day**” has the meaning ascribed to that term by [section 3](#);

“**broadcasting service**” bears the meaning ascribed to that term by section 2 of the Communications Act;

[Cap. 68:01]

“**child**” includes remoter issue and an adopted child and his issue and remoter issue and cognate words shall be construed accordingly;

“**cinematograph picture**” bears the meaning ascribed to that term by section 2 of the Censorship and Control of Entertainment Act;

[Cap. 21:01]

“**operative date**” means—

- (a) in relation to any person or any member of any class of persons designated by the Minister by notice published in the *Gazette* to be a person or a class, as the case may be, for the purposes of this section, such date as shall be specified in such notice in respect of such person or class;
- (b) in relation to any person not within the scope of paragraph (a) living in Malawi on the appointed day, the appointed day;
- (c) in relation to any person not within the scope of paragraph (a) born in Malawi after the appointed day, the date of the ninth anniversary of the birth of such person;
- (d) in relation to any person not within the scope of paragraph (a), (b) or (c) who enters Malawi after the appointed day, the date of the first entry of such person;

“**precluded person**” means any person who, by virtue of [section 6](#), is ineligible to apply for approval of change of name under this Act;

“**stage play**” bears the meaning ascribed to that term by section 2 of the Censorship and Control of Entertainment Act.

[Cap. 21:01]

3. **Appointed day**

- (1) Within one month after the date of the commencement of this Act, the Minister shall, by notice published in the *Gazette*, declare a date specified in such notice to be the appointed day for the purposes of this Act.
- (2) The date to be declared by the Minister under subsection (1) may be the said date of the commencement of this Act or it may be a date occurring before or after such date of commencement.*

*Note: The appointed day was declared to be the 1st of February, 1972: G/N. 15/72

4. **No person to assume, etc., another name without approval of Minister**

- (1) Subject to the other provisions of this Act, no person shall, after the commencement of this Act, for any purpose assume or use or purport to assume or use, or continue the assumption or use of, any name other than that by which he was ordinarily known on the operative date unless he has first obtained in accordance with this Act the approval of the Minister under [section 8](#) to such assumption or use and a notice giving particulars of such approval under that section has been published in the *Gazette*.
- (2) Any person who fails to comply with any provision of subsection (1) shall commit an offence and be liable to imprisonment for six months or a fine of one hundred Kwacha.

5. **Application for approval of Minister to change of name and advertising such application**

- (1) Any person, not being a precluded person, who, after the date of the commencement of this Act, desires to change the name by which he was ordinarily known on the operative date, may make application in accordance with the provisions of this section to the Minister for approval of such change of name.
- (2) Not less than two weeks before making his application to the Minister under this section, the applicant shall cause a notice, in the prescribed form, of his intention to apply for approval of such intended change of name to be published in one issue of a newspaper in general circulation in the area in Malawi in which he resides. Such notice shall, among other things, call upon any person wishing to object to the application to forward to the Minister, within two weeks of the date of such publication as aforesaid, particulars in writing of such objection and the reasons therefor.
- (3) Every application pursuant to this section shall be made to the Minister in the prescribed form and shall be forwarded to the Minister not less than two weeks and not more than two months after the date of the publication of the relevant notice of intention referred to in subsection (2).
- (4) Every such application shall be accompanied with—
 - (a) a statutory declaration in the prescribed form made and subscribed by the applicant supporting his application;
 - (b) a copy of the newspaper in which the notice of intention was published in accordance with subsection (2);
 - (c) the prescribed fee; and
 - (d) any further evidence prescribed to be furnished in support of the application.

6. Precluded persons

No person may apply for approval of a change of name under this Act if he—

- (a) is less than twenty-one years of age;
- (b) is an undischarged bankrupt; or
- (c) has within the three years immediately preceding his application been convicted of an offence under any written law and sentenced therefor to imprisonment without the option of a fine for six months or more.

7. Applicant may also seek approval to change of name for his wife and minor children

When making any application, the applicant may seek approval for his wife or minor children to assume, use and be known by a name or names, as the case may be, other than those assumed or used by her or them, and by which she, or they, was or were ordinarily known on the respective operative dates applicable to them. Where any such applicant includes in the statutory declaration made and submitted under [section 5](#) in support of his application particulars relating to, and undertakings on behalf of, any such wife or child, it shall not be necessary for any such wife or child to make, or file, any separate statutory declaration in support of the application in so far as it relates to her or him.

8. Powers of Minister with regard to applications

- (1) After considering such objections to an application, if any, forwarded to him as the result of the publication of a notice under [section 5](#) (2) and after considering such other matters as to him appear relevant to such application, the Minister, in his discretion, shall decide whether it should be granted or refused and shall cause his decision to be notified to the applicant:

Provided that the Minister shall not approve any such application in so far as it relates to wife or to any child who is more than sixteen years of age unless the consent of such wife or child is first furnished to the Minister.

- (2) When the Minister decides to grant any such application either in whole or in part he shall cause a separate notice in the prescribed form to be published in the *Gazette* in respect of each person to whom the application relates, and to whose change of name approval is granted, giving particulars of such approval.
- (3) Any decision made by the Minister under subsection (2) shall be final and shall not be subject to appeal to, or question by, any court of law, and the Minister shall not be required to assign any reason for such decision.

9. Minister's power to exempt

The Minister may, by licence under his hand in the prescribed form, declare any person to be exempt from the provisions of this Act, and may, by writing under his hand, at any time, revoke any such licence.

10. General exceptions

- (1) Nothing in this Act shall apply to the assumption or use—
 - (a) by any person of the traditional name of the family of his father or his mother;
 - (b) by any married woman of her husband's name or part thereof;
 - (c) by any woman of her maiden name upon the dissolution of her marriage or upon widowhood;

- (d) by any person appointed to any office under the Chiefs Act of the name attaching to that office;
[Cap. 22:03]
- (e) by any person of any name solely for the purpose of portraying a character in any cinematograph picture, stage play or broadcasting service;
- (f) by any person of any pen-name for any lawful purpose;
- (g) of any name by any person in possession of a currently valid licence under the hand of the Minister issued pursuant to [section 9](#); or
- (h) of any name by any body corporate;
- (i) by any person of any name assumed pursuant to any written law relating to the adoption of children;
- (j) by any married woman of her maiden name at any time during the subsistence of her marriage.

- (2) Nothing in this Act shall affect the assumption or use as a business name by any individual or firm carrying on business in Malawi of any name which is for the time being registered as the business name of such individual or firm under the Business Names Registration Act. In this subsection, the terms “business name”, “firm” and “individual” bear the meanings respectively ascribed thereto in section 2 of the Business Names Registration Act.

[Cap. 46:02]

11. Validity of approved changes of name

A change of name effected after approval has been given under this Act to such change shall be valid for all purposes, any rule of law or any custom to the contrary notwithstanding.

12. Regulation making power

The Minister may make regulations for the better carrying out of this Act and, without prejudice to the generality of the foregoing, such regulations may provide for—

- (a) forms to be used for any application, notice or other document required for the purposes of this Act;
- (b) the fees to be paid on any application, or in respect of any notice published, under this Act;
- (c) the conditions to be satisfied, or evidence furnished, before the Minister gives consideration to applications generally, or to applications from any specified category of persons;
- (d) any matter to be, or which may be, prescribed under this Act.