

Act

No. 10 of 1974

I assent

H. KAMUZU BANDA

PRESIDENT

22nd April, 1974

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An Act to provide for the establishment of a body corporate to be known as the Malawi National Council of Sports; to provide for the functions and powers of such body; to provide for the registration of national sports associations; and for matters incidental to, or connected with, the foregoing

ENACTED by the Parliament of Malawi as follows-

PART 1 – PRELIMINARY

1. This Act may be cited as the Malawi National Council of Sports Act, 1974, and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.
2. In this Act, unless the context otherwise requires – “Chairman” means the Chairman of the Council appointed and designated pursuant to section 4;

“Council” means the Malawi National Council of Sports established by section 3;

“financial year” means the period commencing on the date of the commencement of this Act and ending on the 31st of March next following such date and thereafter means the period of twelve months ending on the 31st of March in each year;

"Former Council" means the Council known as the Advisory Council for Sport functioning in Malawi immediately before the coming into operation of this Act;

"member" means any member of the Council appointed pursuant to section 4;

"national sports association" means any group or body of persons, corporate or unincorporate, formed or operating in Malawi and having as one of its objects the promotion on a national basis of any sport whether amateur or professional;

"Register" means the Register of National Sports Associations provided for in section 19; and "register" and "registered" bear corresponding meanings;

registered association" means a national sports association for the time being registered in the Register pursuant to section 19;

"Secretary" means such officer in the public service as the Minister shall designate as Secretary to the Council;"

"sport" means any sport, game or pastime designated by the Minister, by notice published in the *Gazette*, to be a sport for the purpose of this Act.

PART II - ESTABLISHMENT OF THE MALAWI NATIONAL COUNCIL OF SPORTS, ITS FUNCTIONS AND POWERS, FUNDS AND ACCOUNTS, ETC

3. There is hereby established a body corporate to be known as the Malawi National Council of Sports, which shall be a body corporate by that name with perpetual succession and a common seal (with power to alter and change such seal from time to time) and which shall be capable in law of suing and being sued, and, subject to this Act, of acquiring, holding, letting and otherwise disposing of land, and doing and performing such acts and things as bodies corporate by law do and perform.
- 4._ (1) The Council shall consist of not less than eight and not more than ten members, who shall be appointed by the Minister by notice published in the *Gazette*.

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- (2) The Minister shall designate one member as Chairman of the Council and another member as Deputy Chairman thereof.
- (3) Members of the Council shall not, by virtue only of their appointments to the Council, be deemed to be officers in the public service.
- (4) No person shall be appointed to the Council who –
 - (a) is an undischarged bankrupt;
 - (b) has, within three years last past, for an offence against any written law, been sentenced to a term of imprisonment of not less than six months, save as an alternative to, or in default of, the payment of a fine;
 - (c) has, within seven years last past, been convicted of an offence involving fraud or dishonesty.
- (5) The names of all members of the Council as first constituted and every change in membership thereof shall be published in the *Gazette*.

- 5._**
- (1) Members of the Council shall, subject to the provisions of this section, hold office for such period as may be specified in their respective appointments.
 - (2) All members shall hold office subject to the pleasure of the Minister.
 - (3) Subject to subsection (4) the office of a member shall be vacated-
 - (a) upon his death;
 - (b) upon the expiry of one month's notice in writing of his intention to resign his said office given by him to the Minister;
 - (c) upon the receipt by him from the Minister of notice of termination of his appointment to the Council;
 - (d) upon his being adjudicated bankrupt
 - (e) if, by reason of physical or mental illness, he is incapacitated from performing his duties and functions as a member of the Council;
 - (f) if, for an offence against any written law, he is sentenced to a term of imprisonment of not less than six months, save as an alternative to, or in default of, the payment of a fine;

- g) if he is convicted of an offence involving fraud or dishonesty;
 - h) if he has been absent from three consecutive meetings of the Council without the permission of the Council or the Minister.
- (4) If any vacancy occurs by reason of death, resignation, or otherwise, in the office of any member, such vacancy shall be filled in the manner provided by subsection (1) of section 4, and the person appointed to fill such vacancy shall hold office for so long as the person in whose place he is appointed would have held such office should such vacancy not have occurred.
- 6. If at any time any member, other than the Chairman, is unable, owing to his absence from Malawi or to illness or to any other cause, temporarily to perform his duties or discharge his functions in the manner prescribed by this Act, the Minister may appoint a temporary member to perform the duties or discharge the functions of such member for the period during which the member is so disabled.
- 7. (1) The Council may, with the consent of the Minister, co-opt any one or more persons to attend any particular meeting or series of meetings of Council in respect of any particular matter under consideration by the Council.

(2) Any person co-opted pursuant to subsection (1) may take part in the deliberations of the Council at any meeting he so attends but shall have no voting powers.
- 8. Any member of the Council, not being a public officer, shall be paid such remuneration and allowances, if any, as the Minister may in his case fix.
- 9. (1) The Council may meet at such places and times as the Chairman may determine or as he may be directed by the Minister and such meetings shall be convened by notice to the members given by the Chairman.

(2) In the absence of the Chairman from any meeting of the Council, the Deputy Chairman shall preside at that meeting, and in the absence of both the Chairman and the Deputy Chairman, the member of the Council present shall elect one of their number to preside thereat, and the Deputy Chairman, or other member so presiding, shall have all of the powers and perform all of the duties and functions of the Chairman for that meeting.

- (3) Save where otherwise provided by this Act, the Council shall conduct its proceedings in such manner as may be directed by the Minister or in the absence of any such direction, in such manner as the Council deems fit.
 - (4) Minutes of each meeting shall be kept by the Secretary and shall be confirmed by the succeeding meeting and thereat signed by the Chairman, or, in his absence, by the other member presiding, as the case may be.
 - (5) Subject to the provisions of this Act, six members shall form a quorum of the Council.
 - (6) A decision of the Council shall be by resolution of the majority of members present and voting thereon at the meeting in question and at all meetings of the Council the Chairman or the person presiding, as the case may be, shall, in the event of an equality of votes, have a casting vote in addition to his deliberative vote as a member of the Council.
 - (7) All orders and directions of the Council shall be made and given under the hand of the Chairman or the Secretary.
10. No member shall be personally liable for any act or default of his or of the Council done in good faith in the exercise, or the purported exercise, of any power or function of the Council.
11. (1) If a member of the Council or his spouse or any company of which he or she is a director or major shareholder or any partner of such member or his spouse has or acquires any pecuniary interest, direct or indirect, in any manner in which his private interests conflict with his duties as a member and which is the subject of consideration by the Council, he shall, as soon as he becomes aware of such interest in such matter, disclose the facts relating thereto to the Council and to the Minister.
- (2) A member referred to in subsection (1) shall not take part in the consideration of, or vote on, any question before the Council which relates to the matter referred to in that subsection.
- (3) For the purposes of this section, the term "major shareholder" means any person who, at the relevant time, in his own right or by right of any other person, has the power to exercise or control not less than ten per centum of the voting rights in the

relevant company, whether by reason of share holdings, debenture holdings or proxy or otherwise.

12. (1) The functions of the Council shall be-
 - (a) to develop, promote, encourage and control all forms of sport in Malawi on a national basis;
 - (b) to facilitate and encourage co-operation among the various national sports associations and other sports organisations in Malawi;
 - (c) to assist, whenever possible, sports associations and national, regional, district and local authorities in promoting the development of sport and physical recreation in Malawi;
 - (d) to organise in consultation with national sports associations, national, international and other sports competitions and festivals with particular emphasis on the exchange of experience, and the fostering of friendly relations with other nations;
 - (e) to promote throughout Malawi the highest standards of sportsmanship and discipline in all sportsmen;
 - (f) to organise and promote scholarships for the training of coaches, organisers and officials and to foster the promotion of training and coaching schemes and courses.
 - (g) to advise the Government and any authority, either specifically or generally, on matters relating to sport and physical recreation.
 - (2) In carrying out the functions conferred upon it by this Act, the Council shall at all times do so in accordance with the directions, whether general or special, of the Minister.
13. (1) Subject to the directions of the Minister, whether general or special, the Council shall have the power to do all such things as are incidental or conducive to the carrying out of its functions under this Act or any of them.
 - (2) The Council shall in addition to the powers conferred by, or implied in, this Act have the powers set out in the schedule

- (3) The Minister may at any time, by notice published in the *Gazette*, alter, amend or add to the Schedule.
- 14.
- (1) The Council may establish committees to assist it in carrying out its functions and in its discretion appoint any person as a member of such committee whether or not he is a member of the Council.
 - (2) The Council may in its discretion assign any of its functions or powers to a committee established in accordance with subsection (1) but shall not be divested of any power or function which it may have assigned to a committee and may amend or withdraw any decision of any such committee.
 - (3) The Council may, out of its funds, pay to any member of any committee established under this section who is not a public officer such remuneration and allowances as the Minister may determine.
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- (1) The funds of the Council shall consist of-
 - (a) such sums as may be payable to the Council from moneys appropriated by Parliament for the purpose;
 - (b) such moneys or assets as may accrue to, or vest in, the Council whether in the course of the exercise of its functions or powers or otherwise;
 - © such moneys or assets as may accrue to, or vest in, the Council by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or from any other source;
 - (d) such sums as are derived from the sale of any property, real or personal, by, or on behalf of, the Council;
 - (e) revenue obtained by virtue of the provisions of subsection (2);
 - (f) any moneys received as a result of the exercise by the Council of the powers conferred upon it by section 16.
 - (2) Subject to the provisions of this Act, the Council may, in respect of any service rendered by it under this Act, charge fees or make such other financial arrangements as it may deem fit.

- (3) With the approval of the Minister, the Council may establish such reserve funds as it may deem necessary or expedient and put therein such amounts as the Minister may approve.
16. -
 - (1) The Council may, subject to the special or general directions of the Minister, invest all or any portion of its moneys –
 - (a) in the purchase of Treasury Bills or any other security issued by the Government of Malawi;
 - (b) on deposit in any bank or building society licensed or registered under any law for the time being in force in Malawi;
 - © in any other form or manner approved by the Minister and the Minister of Finance.
 - (2) The Council may vary or realize any of its investments with the approval of the Minister.
 - (3) The Council shall utilise its funds for defraying expenses in connexion with the carrying out of its functions.
 - (4) Subject to the directions of the Minister, whether special or general, all moneys, when received by the Council, shall be paid into a bank licensed or registered under the law for the time being in force in Malawi and shall be credited to such of the Council's accounts as may be appropriate.
17. The Council shall at all times comply with the provisions of the Finance and Audit Act.
18.
 - (1) The Council shall cause to be kept proper books of account and other books in relation thereto.
 - (2) The accounts of the Council shall be audited at the end of each of the Council's financial years by an auditor appointed by the Council and approved by the Minister.
 - (3) The Council shall pay in respect of any audit held under this Part such fees, costs and expenses as may be appropriate.
 - (4) With the prior consent of the Minister, the auditor may by writing under his hand require the production of all books, deeds, contracts, vouchers, receipts and other documents

relating to the accounts or investments of the Council which he may deem necessary for the purpose of the audit. He may summon in writing all such persons having knowledge of the affairs of the Council as he may think proper to appear before him personally at the offices of the Council at a time to be fixed in such summons for examination in connexion with any documents or matter relating to the audit.

(5) Any person who, without just cause, fails or refuses to produce any document the production of which has been duly required by the auditors, or who, having been so summoned-

(a) without just cause neglects or refuses to comply with the summons; or

(b) having appeared before the auditor, without just cause refuses to be examined; or

(c) without just cause refuses to answer such questions pertaining to the audit as are put to him,

shall be liable to a fine of one hundred Kwacha for every such refusal or neglect incurred. In default of payment, such person shall be liable to imprisonment for three months:

Provided that any conviction under this section shall not operate or be taken to exempt the person convicted from the liability to do or perform the act, matter or thing required of him.

(6) After completion of the audit of the accounts of the Council, the auditor shall report thereon in writing to the Council about the audit generally and on such specific matters in relation thereto as the Minister may direct. The Council shall take the report into consideration within two months after the date of the receipt thereof, and thereupon a copy of such report, together with the Council's comments thereon, shall be sent by the Council to the Minister.

PART III – REGISTRATION OF NATIONAL SPORTS
ASSOCIATIONS, ETC.

19. - (1) A Register of National Sports Associations in such form, if any, as may be prescribed shall be kept and maintained by the Council.
- (2) Every national sports association shall, within three months of the date of the commencement of this Act or within thirty days of its coming into existence, whichever date shall be the later, apply to the Council in the prescribed manner for registration in the Register as a registered association under this Act.
- (3) Every national sports association applying for registration pursuant to subsection (2) shall in its application -
- (a) set forth the name and address of the association and the names, designations and addresses of its officers and the members of its executive committee or other body in control of its affairs;
 - (b) state the name and the address in Malawi of a person authorized to accept service of any proceedings, notices, or other things on its behalf;
 - (c) submit together with the application a copy of the memorandum and articles, constitution or rules of the association, as the case may be.
- (4) As soon as is practicable after receiving an application pursuant to subsection (2), the Council shall consider the same and, having satisfied itself as to-
- (a) the suitability of the memorandum and articles, constitution or rules of the association;
 - (b) the good faith of its officers and members; and
 - (c) the fact that the association complies in all respects with the criteria prescribed for registration,
- the Council may direct the Secretary to cause the national sports association in question to be registered in the Register.

- (5) Where any amendment is made to the memorandum, articles, constitution or rules of a registered association, or any alteration occurs in any of the matters or things in respect whereof particulars are required to be given under subsection (3), such association shall forthwith give particulars in writing of such amendments or alteration, as the case may be, to the Council.
- (6) Every registered association shall, not later than the last day of June in each year, submit to the Council a report of the operations of the association during the period of twelve months ending on the 31st of March in such year together with a balance sheet and income and expenditure account giving true and complete particulars of the financial position of the association as at such last-mentioned date and of its financial transactions during the twelve month period preceding such date respectively. The balance sheet submitted under this section shall be duly certified as true and complete by the auditors of the association appointed following election at its annual general meeting.
20. - (I) If any registered association, in the opinion of the Minister-
- (a) has failed to comply with any of the provision of subsection (5) or (6) of section 19.
 - (b) has ceased to operate in Malawi as a national sports association or to comply with any of the criteria prescribed in relation to its registration.
 - © should in the public interest cease to be registered, the Minister may call upon such association to show to him cause why the association should not be struck off the Register.
- (2) If cause why such association should not be struck off the Register is not shown to the satisfaction of the Minister within a reasonable time, the Minister may direct the Secretary to strike the association off the Register from such date as the Minister may specify and the Secretary shall strike it off accordingly.

- (3) Any decision of the Minister under this section 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 any such decision.
21. If, at any time after the commencement of this Act, a national sports association, not being a registered association under this Act, operates in Malawi as a National sports association, every person concerned in the management of the said national sports association shall be guilty of an offence and liable to a fine of two hundred Kwacha and to imprisonment for three months:

Provided that nothing in this section shall apply to any person concerned in the management of a national sports association if application to register such association has been made in full compliance with section 19 and the result of such application has not been notified by the Secretary to the person stated under section 19 to be the person authorized to accept service on behalf of the association.

PART VI – TRANSITIONAL PROVISIONS, REGULATION-MAKING POWERS, ETC.

22. 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 the Register and for any application or notices under this Act;
 - (b) the criteria to be satisfied by a national sports association before it may be registered;
 - (c) the forms of certificates of registration;
 - (d) the fees for any application to the Council;
 - (e) any matter to be or which may be prescribed.
23. The Council shall be deemed to be the successor to the Former Council and all property, rights and obligations which immediately before the coming into operation of this Act were vested in, held or incurred by the Former Council shall henceforth be vested in, held by or imposed upon the Council.

SCHEDULE

POWERS OF THE COUNCIL

(Section 13)

Subject to the directions of the Minister, whether special or general,
The Council shall have the following powers-

- (a) to award, in consultation with the Olympic and Commonwealth Games Association of Malawi and other national sports associations, national colours, ties, medals, diplomas, trophies and other awards for the encouragement and promotion of sport and physical recreation in Malawi;
- (b) to approve international and national sports competitions and festivals organised by registered and other associations.

Passed in Parliament this twenty-ninth day of March, one thousand,
nine hundred and seventy-four.

W. J. MABVIKO
CLERK OF PARLIAMENT