

[Subsidiary] Petroleum (Applications) Regulations

SUBSIDIARY LEGISLATION

G.N. 48/1984 PETROLEUM (APPLICATIONS) REGULATIONS
under s. 78

Citation 1. These regulations may be cited as the Petroleum (Applications) Regulations.

Application for grant of petroleum exploration licence 2.—(1) An application for the grant of a petroleum exploration licence—

(a) shall give in respect of the person or, if there is more than one person, of each person, making the application—

(i) in the case of an individual, his full name and nationality;

(ii) in the case of body corporate, its name and place of incorporation, the names and nationality of the directors or equivalent officers and, if the body corporate has a share capital, the name of any person who is the beneficial owner of more than five per centum of the issued share capital;

(b) shall identify the block or blocks in respect of which it is made;

(c) shall, subject to subregulation (2), be in respect of not more than sixty blocks;

(d) shall give or be accompanied by a statement giving particulars of work and minimum expenditure proposed to be carried out or expended in respect of the block or blocks over which the licence is sought, and an estimate of any significant effect which the proposed exploration operations would be likely to have on the environment and on any monument or relic in any such block;

(e) shall give or be accompanied by a statement giving particulars of the applicant's proposals with respect to the employment and training of citizens of Malawi; and

(f) may set out any other matter which the applicant wishes the Minister to consider.

(2) The Minister may consider an application in respect of more than sixty but not more than two hundred blocks where he is satisfied that special circumstances exist for doing so.

(3) Where an application relates to more than one block, the blocks identified in an application for the grant of a petroleum exploration licence—

(a) shall be so situated as to form a single area; and

(b) shall be such that each block in the area has a side in common with at least one other block in the area.

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3.—(1) An application for the renewal of a petroleum exploration licence—

Application for renewal of petroleum exploration licence

(a) shall, subject to subregulation (2), be made not later than ninety days before the day on which the licence is due to expire;

(b) shall be accompanied by—

(i) particulars of the work carried out in, and the amount expended in respect of, the exploration area during the term of the licence up to and including a date that is not earlier than fourteen days immediately preceding the date of the application or, where the application is for a second renewal of the licence, up to and including a date that is not earlier than fourteen days immediately preceding the date of the application; and

(ii) adequate proposals of the applicant for work and minimum expenditure in respect of the block or blocks specified in the application and, in particular, details of the programme to be performed in the first year of the renewal period being applied for;

(c) shall be made not more than twice; and

(d) may set out any other matter that the applicant wishes the Minister to consider.

(2) The Minister may accept an application for the renewal of a petroleum exploration licence later than ninety days before, but not in any case after, the date of expiry of the licence.

(3) The requirement in subregulation (1) (b) (ii) with respect to adequate proposals is deemed to have been met in any case where the proposals pursuant to subregulation (1) (b) (ii) accompanying an application satisfy the requirements (if any) with respect to work and expenditure contained in a relevant agreement of a kind referred to in section 10 of the Act.

4.—(1) Subject to subregulation (2), an application for the grant of a petroleum production licence—

Application for grant of petroleum production licence

(a) shall give in respect of the person or, if there is more than one person, or each person, making the application—

(i) in the case of an individual, his full name and nationality;

(ii) in the case of a body corporate, its name and place of incorporation, the names and nationality of the directors or equivalent officers and, if the body corporate has a share capital, the name of any person who is the beneficial owner of more than five per centum of the issued share capital;

(b) shall give full information as to the applicant's financial status, technical competence and experience;

(c) shall state the number of the applicant's petroleum exploration licence (if any);

(d) shall state the period for which the licence is sought;

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(e) shall identify the composition of the petroleum which it is intended to produce;

(f) shall give a comprehensive report of the petroleum deposit, which report shall include a description of the petroleum reservoir or deposit, the form of the petroleum and an estimate of the petroleum and an estimate of the petroleum reserves;

(g) shall give details, illustrated by an approval plan, of the area in respect of which the application is made;

(h) shall give a technological report on production and processing possibilities and state the applicant's intention in relation thereto;

(i) shall contain a proposed programme of production and processing operations which shall include—

(i) the date by which the applicant intends to produce petroleum for use or sale;

(ii) the capacity of production and scale of operations;

(iii) the estimated overall recovery of petroleum and by-products;

(iv) the nature of the petroleum and by-products;

(v) the marketing arrangements made for the sale of the petroleum and by-products;

✓(vi) proposals for the prevention of pollution, the treatment of wastes, the safeguarding of natural resources, the progressive reclamation and rehabilitation of lands disturbed by petroleum production and for the minimization of the effect of such extraction on adjoining or neighbouring lands; and

(vii) a statement of any significant effect which the carrying out of petroleum production would be likely to have on the environment and on any monument or relic in the area over which the licence is sought and proposals for controlling or eliminating that effect; E15

(j) shall give a detailed forecast of capital investment, operating costs and sales revenues and the anticipated type and source of financing;

(k) shall contain proposals with respect to the employment and training of citizens of Malawi;

(l) shall give a report of the goods and services required for the production and processing operations which can be obtained within Malawi and the applicant's intention in relation thereto;

(m) shall give details of expected infrastructure requirements; and

(n) may set out any other matter that the applicant wishes the Minister to consider.

Petroleum (Constitution of Blocks) Regulations

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(2) The Minister may, by instrument in writing, dispense with or modify any of the requirements of subregulation (1) in relation to an application where he considers it appropriate to do so on the ground that the requirement has already been met by the applicant or that the information to which the requirement relates is already available to the Minister.

5.—(1) An application for the renewal of a petroleum production licence—

Application for renewal of petroleum production licence

(a) shall, subject to subregulation (2), be made not later than twelve months before the day on which the licence is due to expire;

(b) shall be accompanied by—

(i) particulars of the work carried out, the petroleum recovered and the amounts expended and received in respect of the production area up to and including a date that is not earlier than one month immediately preceding the date of the application; and

(ii) adequate proposals of the applicant for work and minimum expenditure in respect of the production area during the renewal period being applied for;

(c) shall be made once only; and

(d) may set out any other matter that the applicant wishes the Minister to consider.

(2) The Minister may accept an application for the renewal of a petroleum production licence later than twelve months before, but not in any case after, the date of expiry of the licence.

PETROLEUM (CONSTITUTION OF BLOCKS) REGULATIONS

G.N. 40/1984

under s. 78

1. These regulations may be cited as the Petroleum (Constitution of Blocks) Regulations.

Citation

2.—(1) The Minister shall cause to be prepared a reference map showing the geographical area of Malawi, divided into blocks constituted as provided in this regulation.

Reference map showing blocks

(2) For the purpose of the preparation, pursuant to subregulation (1), of the reference map, the surface of the earth is deemed to be divided into blocks—

(a) by the meridian of Greenwich and by meridians that are at a distance from that meridian of five minutes of longitude or a multiple of five minutes of longitude; and

(b) by the equator and by parallels of latitude that are a distance from the equator of five minutes of latitude or a multiple of five minutes of latitude,

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each of which is bounded by portions of two—

(c) of those meridians that are a distance from each other of five minutes of longitude; and

(d) of those parallels of latitude that are at a distance from each other of five minutes of latitude.

(3) Where any blocks as so constituted would be partly inside and partly outside Malaŵi, the block shall be treated as being constituted by the part that is inside Malaŵi.

(4) Each block on the reference map prepared pursuant to subregulation (1) shall be given on the map a number and a letter, or either, for the purpose of identification.

(5) The manner of the depiction of the geoid for the purpose of the division referred to in subregulation (2) shall be determined, from time to time, by the Commissioner for Surveys by notice published in the *Gazette*.

Reference map to be deposited

3.—(1) The reference map prepared pursuant to regulation 2 (1) shall be deposited at such office as may, from time to time, be appointed by the Minister by notice published in the *Gazette*.

(2) The Minister may, from time to time, certify a map to be a true copy of the reference map prepared pursuant to regulation 2 (1) and any such copy shall be received in all proceedings as evidence of the contents of the reference map so prepared.

Interpretation of references in licences

4. Any reference in a petroleum exploration licence or in a petroleum production licence to an identified block shall be interpreted as a reference to the block so identified on the reference map prepared pursuant to regulation 2 (1).

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PETROLEUM (GENERAL PROVISIONS) REGULATIONS

under s. 78

Citation

1. These regulations may be cited as the Petroleum (General Provisions) Regulations.

Investigations

2. The investigations and studies for the purposes of section 26 of the Act are—

(a) technical and economic feasibility studies relating to the recovery, processing and transportation of petroleum from the discovery block or blocks in the exploration area;

(b) studies of proposed sites for facilities that would be required by the industry referred to in subsection (1) of that section;

(c) studies of port or berthing facilities, and roads, pipelines or other transportation facilities;

(d) investigations into—

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- (i) suitable water facilities and reticulation systems for industrial and town purposes;
- (ii) the location and design of a suitable airstrip and associated landing and terminal facilities, if so required for that industry; and
- (iii) the generation and transmission of electricity as so required for that industry;
- (e) investigations into the development, if so required, of a suitable town for the industry referred to in subsection (1) of that section including the design of housing facilities and associated civic, cultural and social facilities;
- (f) investigations of any other works, services or facilities that may be so required for that industry in relation to the discovery block or blocks in the exploration area;
- (g) studies of future labour requirements for the industry; and
- (h) physical impact studies into the possible effects of that industry on the environment.

3.—(1) The Commissioner may, at any time, by notice in writing served on a holder of a licence, direct the holder—

Survey of wells, etc.

- (a) to carry out a survey of the position of any well, structure or equipment specified in the notice; and
- (b) to furnish promptly to the Commissioner a report in writing of the survey.

(2) Where the Commissioner is not satisfied with a report of a survey furnished to him under subregulation (1) by the holder of a licence, he may, by notice in writing served on the holder direct the holder to furnish promptly information in writing in connexion with the survey.

PETROLEUM (PRESCRIBED FEES AND ANNUAL CHARGES) REGULATIONS

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53/1984

under s. 78

1. These Regulations may be cited as the Petroleum (Prescribed Fees and Annual Charges) Regulations. Citation

2. The fees prescribed in the First Schedule are payable in respect of the matters referred to in that Schedule. Fees

3.—(1) The annual charges prescribed in the Second Schedule are payable in respect of the matters referred to in that Schedule, unless the Minister otherwise directs. Charges

(2) Any annual charge payable pursuant to these Regulations is payable on the grant of the licence concerned and thereafter annually on the anniversary of the grant until the termination of the licence.

LAWS OF MALAWI

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Cap. 61:02 *Petroleum (Exploration and Production)*

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Petroleum (Records, Reports and Accounts) Regulations

FIRST SCHEDULE

	<i>Fees</i>
Application for grant of petroleum exploration licence ..	K2,000
Application for grant of petroleum production licence ..	K3,000
Application for renewal of petroleum exploration licence ..	K1,000
Application for renewal of petroleum production licence ..	K1,000
Assignment of petroleum exploration licence ..	K500
Assignment of petroleum production licence ..	K500

SECOND SCHEDULE

(a) The annual charge in respect of a petroleum exploration licence is K10 per square kilometre of the area subject to the licence.

(b) The annual charge in respect of a petroleum production licence is K50 per square kilometre of the area subject to the licence.

G.N. 42/1984 **PETROLEUM (RECORDS, REPORTS AND ACCOUNTS) REGULATIONS**

under s. 78

Citation 1. These regulations may be cited as the Petroleum (Records, Reports and Accounts) Regulations.

Records, etc. 2.—(1) Subject to these regulations, the holder of a licence shall keep at an address in Malawi notified to the Minister accurate records containing full particulars of the following matters, namely—

(a) the drilling, operation, deepening, plugging or abandonment of wells;

(b) the strata and subsoil through which wells are drilled;

(c) the casing inserted in wells and any alteration to such casing;

(d) any petroleum, water and other economic minerals or dangerous substances encountered; and

(e) the areas in which any geological or geophysical work has been carried out.

(2) The holder of a licence shall keep at the address referred to in subregulation (1) accurate geological maps and plans, geophysical records, and interpretations thereof, relating to the areas subject to the licence.

(3) The holder of a licence shall give to the Minister in such form as the Minister directs—

(a) at half-yearly intervals commencing six months after the grant of the licence—

(i) a summary of all geological and geophysical work carried out;

(ii) a summary of all drilling activity and results obtained; and

(iii) a list of maps, or reports and of other geological and geophysical data prepared for the holder,

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in or in respect of the period concerned;

(b) within sixty days after the end of each year of the term of the licence—

(i) a record describing the results of all exploration and production operations carried out by the holder in the year concerned; and

(ii) estimates (if available) of economically recoverable reserves of crude oil and natural gas at the end of the year concerned; and

(c) summaries of exploration wells drilled, including lithological groups, letter classification boundaries and hydrocarbon zones, within six months of the completion of drilling or, in the case of information that cannot reasonably be obtained in that period, as soon as possible after the completion of drilling.

3. Subject to these regulations, when a licence is determined or cancelled or expires, the person who was the holder of the licence immediately before the determination, cancellation or expiration of the licence shall forthwith deliver to the Minister—

Duties on
termination
of licence

(a) all records which the former holder maintained pursuant to these regulations with respect to the licence;

(b) all plans or maps of the area that was subject to the licence and which were prepared by or on the instructions of the former holder;

(c) all tapes, diagrams, profiles and charts which were so prepared; and

(d) such other documents as the Minister may, by notice given to the former holder, require the former holder to so deliver.

4. Subject to these regulations, the holder of a licence shall keep at an address in Malaŵi notified to the Minister, accurate accounts containing full particulars of the following matters, namely—

Accounts

(a) the gross quantity of any crude oil and natural gas won and saved from the area subject to the licence;

(b) the grades and gravity of any crude oil produced and the composition of natural gas produced;

(c) any quantities of—

(i) crude oil;

(ii) natural gas;

(iii) each refined petroleum product, including liquefied petroleum gases; and

(iv) sulphur, in any form, or any other minerals in any form or any other gases, liquids or solids,

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Petroleum (Registration and Transfer of Licences) Regulations

disposed of by way of sale or otherwise, the consideration received the quantity disposed of, and the name of the person to whom any such quantity was disposed;

(d) the quantity of petroleum injected into the formation of—

- (i) crude oil;
- (ii) natural gas;
- (iii) each refined petroleum product, including liquefied petroleum gases; and
- (iv) other liquids or gases;

(e) the quantity consumed for drilling and other production operations (other than quantities reported under paragraph (d)) and consumed in pumping to field storage and refineries in Malawi of—

- (i) crude oil;
- (ii) natural gas; and
- (iii) each refined petroleum product, including liquefied petroleum gases;

(f) the quantity of crude oil refined by or on its behalf in Malawi;

(g) the quantity of natural gas treated in Malawi by him or on his behalf for the removal of liquids and liquefied petroleum gases, and the quantity of—

- (i) butane;
- (ii) propane; and
- (iii) any other liquid or gases or any solids, obtained from it;

(h) the quantity of natural gas flared.

Modification
of duties
under the
Regulations

5. The Minister may, on written application made to him by the holder or former holder of a licence, by instrument in writing, dispense with or modify any of the requirements of these regulations, in their application to that holder or former holder, to the extent and on the conditions (if any) stated in the instrument.

G.N. 41/1984

PETROLEUM (REGISTRATION AND TRANSFER OF LICENCES) REGULATIONS

under s. 78

Citation

1. These regulations may be cited as the Petroleum (Registration and Transfer of Licences) Regulations.

Record to be kept

2. The Commissioner shall cause to be kept a record, in such form as the Commissioner determines, in which shall be entered—

- (a) the name and address of each person to whom a licence is granted; and
- (b) any dealings with or affecting a licence.

Petroleum (Registration and Transfer of Licences) Regulations

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3.—(1) A legal or equitable interest in, or affecting, a licence, is not capable of being created, transferred, assigned, affected or dealt with, whether directly or indirectly, except by instrument in writing.

Interest in licence to be created by instrument in writing

(2) The creation of a legal or equitable interest in, or affecting, a licence, does not affect the liability of the licensee for any breach of the conditions of the licence or of any of the provisions of the Act.

4.—(1) Unless the Minister in writing approves—

(a) the transfer of a licence; or

(b) an instrument by which a legal or equitable interest in, or affecting, a licence is created, assigned or dealt with, whether directly or indirectly,

Transfer, etc. of licence to be approved by Minister

the transfer or the instrument (in so far as it operates as provided in paragraph (b)), is of no force.

(2) A person seeking the approval of the Minister under subregulation (1), shall make application to him in the prescribed form.

(3) Subject to subregulations (4) and (5), on application made under subregulation (2), the Minister may give or refuse to give his approval, or give his approval subject to such conditions as he deems necessary in the circumstances to impose.

(4) The Minister shall give his approval to the transfer of a petroleum exploration licence where the transferee—

(a) is a person controlling, controlled by or under common control with the transferor; and

(b) is not a person disqualified under any provision of the Act from holding a petroleum exploration licence.

(5) Where the Minister gives his approval under subregulation (4), he shall cause the name of the transferee to be recorded as the holder of the licence, and any legal proceedings which may be or have been commenced against the transferor may be commenced or, as the case may be, continued notwithstanding the transfer.

(6) For the purposes of subregulation (1) (a), the reference to “the transfer of a licence” includes the transfer of a licence by operation of law.

5. The Minister may require any person making application under regulation 4 to furnish to him in writing such additional information as he may reasonably require to enable him to dispose of the application, and the applicant shall comply with the requirement.

Minister may require additional information

6.—(1) The Commissioner may give a certificate with respect to any matter referred to in subregulation (2).

Evidentiary provision

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Petroleum (Registration and Transfer of Licences) Regulations

(2) A certificate of the Commissioner—

(a) that a licence was granted, transferred, suspended or cancelled on, or with effect from, a date specified in the certificate;

(b) that any block, identified in the certificate, is, or was on a date specified in the certificate, subject to a licence;

(c) that a condition specified in the certificate is a condition on which any consent or approval, so specified, was given;

(d) that any condition specified in the certificate is, or was on a date so specified, a condition of a licence;

(e) that a person named in the certificate is, or was on a date specified in the certificate, the holder of a licence,

shall be received in proceedings before any court or tribunal as evidence of that fact, but without prejudice to the right to adduce evidence in rebuttal.