



MALAWI GOVERNMENT

# **LOCAL GOVERNMENT ACT, 1998**

(Published 31st December, 1998)

Act

No. 42 of 1998

I assent

BAKILI MULUZI

PRESIDENT

30th December, 1998

## ARRANGEMENT OF SECTIONS

### SECTION

#### PART I-PRELIMINARY

- I. Short title and commencement
2. Interpretation

#### PART II-LOCAL GOVERNMENT

##### *Division 1-Objectives and Areas*

3. Objectives of local government
4. Local government areas

##### *Division 2-Constitution and Functions*

5. Composition of the Assembly
6. Functions of the Assembly
7. Chairman and Vice-Chairman of the Assembly
8. Procedure at meetings of the Assembly
9. Mayor and Deputy Mayor
10. Elected members
11. Designation of head of the Assembly Secretariat

#### PART III-PROCEEDINGS OF THE ASSEMBLY

12. Disclosure of interest
13. Procedure

#### PART IV -DISCHARGE OF FUNCTIONS

14. Service committees
15. Delegation to committees
16. Appointment of committees
17. Expenses of joint committees
18. Disability from voting on account of pecuniary interests

19. Standing Orders
20. Monitoring of Assembly decisions
21. Prohibition orders
22. Evidence of resolutions
23. Admission to meetings

#### PART V -POWERS OF THE ASSEMBLY

24. General Powers
25. Staff regulations
26. Remuneration of officers
27. Secondment of public officers
28. Secondment and exchange of staff
29. Security in relation to officers
30. Appointments to be on merit
31. Members not to be employees
32. Disclosure of interest by employees, etc.
33. Oath of secrecy
34. Acquisition of land by agreement
35. Disposal of land
36. General provisions on land transactions
37. Supply of goods and services
38. Contracts
39. Contributions to concurrent expenditure
40. Powers in respect to emergencies or disasters
41. Acceptance of gifts of property
42. Provision of information
43. Subscription to associations

#### PART VI-FINANCIAL PROVISIONS

44. Sources of revenue
45. Secretariat of the Local Government Finance Committee
46. General fund and special funds
47. Assembly to open bank account
48. Overdrafts
49. Power to borrow
50. Investment of funds
51. Annual and supplementary estimates
52. Reallocation of approved estimates
53. Accounts
54. Audit of accounts
55. Local Government Finance Committee may disallow or surcharge
56. Power of Minister to give financial instructions
57. External assistance
58. Assistance from Non-Governmental Organizations

- 59. Financial year .
- 60. Superannuation and retirement provisions

PART VII -VALUATION AND RATING

- 61. Application
- 62. Definitions
- 63. Assessable property
- 64. Levy of fixed sums
- 65. Preparation of valuation rolls
- 66. Supplementary valuation
- 67. Valuer
- 68. Method of valuation
- 69. Supplementary valuation roll to be part of main roll
- 70. Alteration of valuation roll
- 11. Correction of errors
- 72. Effective date of supplementary valuation rolls
- 73. Powers of entry
- 74. Provision of information to valuer
- 75. Deposit of valuation rolls
- 76. Objection to valuation rolls
- 77. Valuation rolls to be conclusive evidence
- 78. Payment of rates pending the hearing of an objection or an appeal
- 79. Duty to levy rates
- 80. Period of rate
- 81. Date on which rate is payable
- 82. Notice of rate
- 83. Remission of rate
- 84. Exempted properties
- 85. Government to pay rates
- 86. Payments of rates
- 87. Liability for rates
- 88. Rates records.
- 89. Evidence of rates
- 90. Rate to be a charge upon the property
- 91. Seizure of property in default

PART VIII-GENERAL PROVISIONS RELATING TO THE ASSEMBLY

- 92. Legal proceedings
- 93. Documents and notices, etc.
- 94. Inspection of documents
- 95. Copies of documents
- 96. Reports and returns
- 97. Ser-vice of notices on the Assembly 98. Public notices
- 99. Service of notices by the Assembly

- 100. Authentication of documents
- 101. Powers of entry
- 102. Obstruction of officers on duty
- 103. By-laws
- 104. Procedure for By-laws
- 105. Offences against By-laws
- 106. Evidence of By-laws
- 107. Computation of time

PART IX-MISCELLANEOUS PROVISIONS

- 108. Status
- 109. Honorary appointments
- 110. Inquiries
- 111. Transfer of staff
- 112. Penalties
- 113. Expenses
- 114. Repeals and savings

SCHEDULES

FIRST SCHEDULE  
LOCAL GOVERNMENT AREAS

SECOND SCHEDULE  
ADDITIONAL FUNCTIONS OF THE ASSEMBLY

THIRD SCHEDULE  
SOURCES OF REVENUE FOR THE ASSEMBLY

**An Act to amend and consolidate the law relating to local government and to provide for matters connected therewith or Incidental thereto**

ENACTED by the Parliament of Malawi as follows-

PART \_PRELIMINARY

- |                              |   |
|------------------------------|---|
| Short title and commencement | 1. This Act may be cited as the Local Government Act, 1998 commence- and shall come into operation on such a date as the Minister may, by notice published in the Gazette, appoint.   |
| Interpretation               | 2. In this Act, unless the context otherwise requires- <ul style="list-style-type: none"> <li>"Assembly" means an Assembly specified in the second column of the First Schedule;</li> <li>"immediate family member", in relation to any person, means that person's spouse, child, parent, brother or sister;</li> <li>"Local Authority" means a District Assembly, Town Assembly, Municipal Assembly or City Assembly constituted under this Act;</li> <li>"local government area" means an area under the jurisdiction of a District Assembly, Town Assembly, Municipal Assembly or City Assembly. .</li> </ul> |

## PART II-LOCAL GOVERNMENT AREAS

*Division 1-Objectives and Areas*

3. The objectives of local government shall be to further the constitutional order based on democratic principles, accountability, transparency and participation of the people in decision-making and development processes. objectives of local government
- 4.-(1) For the administration of local government, there shall be local government areas which shall comprise the areas respectively described in the first column of the First Schedule. Local government areas
- (2) The Minister may, from time to time; by order published in the *Gazette* declare any local government area to be a township or a municipality.
- (3) The President may, by order published in the *Gazette*, -confer the title and dignity of "City" on any Municipality.
- (4) The President may, by notice published in the *Gazette*, amend the First Schedule.

*Division 2-Constitution and Functions*

- 5.-(1) For every local government area there shall be an Assembly consisting of- Composition of the Assembly
- (a) one member elected from each ward within the local government area;
- (b) Traditional Authorities and Sub-Traditional Authorities from the local government area as non-voting members *ex-officio*;
- (c) Members of Parliament from the constituencies that fall within the local government area as non-voting members *ex officio*; and
- (d) five persons as non-voting members to be appointed by the elected members to cater for the interests of such special interest groups as the Assembly may determine.
- (2) Each Assembly shall be a body corporate by the name "The District Assembly of....." or "The Town Assembly of....." or "The Municipal Assembly of....." or "The City Assembly of.." as the case may be, with the addition of the name of the particular district, town, municipality or city.
- 6.-(1) The As-sembly shall perform the following functions- Functions of the Assembly
- (a) to make policy and decisions on local governance and development for the local government area;
- (b) to consolidate and promote local democratic institutions and democratic participation;
- (c) to promote infrastructural and economic development through the formulation, approval and execution of district development plans;

(d) to mobilize resources within the local government area for governance and development;

(e) to maintain peace and security in the local government area in conjunction with the Malawi Police Service;

(f) to make by-laws for the good governance of the local government area;

(g) to appoint, develop, promote and discipline its staff;

(h) to co-operate with other Assemblies in order to learn from their experiences and exchange ideas;

(i) to perform other functions including the registration of births and deaths and participate in the delivery of essential local services.

(2) In addition to the functions specified in subsection (1), the Assembly shall also perform the functions stated in the Second Schedule.

(3) The Minister may, on the written request of an Assembly, exempt the Assembly from any of the functions specified in the Second Schedule.

(4) The Minister may, by notice published in the *Gazette*, amend the Second Schedule.

Chairman and  
Vice-Chairman  
of the  
Assembly

7.-(1) Members of the Assembly shall, at their first meeting elect, from amongst their number, a Chairman and a Vice-chairman

(2) The Chairman shall be the head of the Assembly and shall serve for a period of five years unless sooner replaced.

(3) The Chairman shall be responsible for the observance of the provisions of this Act and shall provide leadership in the Assembly.

(4) The Assembly shall pay the Chairman, the Vice-Chairman and other members of the Assembly such allowances as the Minister may, on the recommendation of the Local Government Finance Committee, determine.

Procedure at  
Meeting of the  
Assembly

8.-(1) The procedure to be followed at meetings of the meetings of the Assembly shall be as laid down in Standing Orders made by the Assembly under section 19.

(2) At a meeting of the Assembly, one third of the elected members shall form a quorum.

Mayor and  
Deputy Mayor

9. The Chairman and Vice-Chairman of a City Assembly or Municipal Assembly may have the title of Mayor and Deputy Mayor, respectively and any reference in this Act to the Chairman

or Vice-Chairman of the Assembly may be construed as including a reference to the Mayor and Deputy Mayor.

10. A member of the Assembly referred to in section 5 (J) (a ) shall be elected in accordance with the Local Government Elections Act.

Elected members (No.24 of 1996)

11.-(1) There shall be in the Assembly an officer designated as the Chief Executive Officer of the Assembly who shall be the head of the Secretariat of the Assembly.

Designation of Head of the Assembly Secretariat

(2) The Chief Executive Officer of the Assembly shall be appointed by the Assembly.

(3) The Chief Executive Officer of the Assembly shall, subject to the general or special direction of the Assembly, be responsible for (a) implementing the resolutions of the Assembly; (b) the day to day performance of the executive and administrative functions of the Assembly; (c) the supervision of the departments of the Assembly; and (d) the proper management and discipline of the staff of the Assembly.

PART III-PROCEEDINGS OF THE ASSEMBLY

12.-(1) If any member is present at a meeting of the Assembly or of any committee of the Assembly at which any matter which is the subject of consideration is a matter in which that member or his immediate family member or his professional dr business partner is directly or indirectly interested in a private or professional capacity, he shall, as soon as is practicable after the commencement of the meeting, disclose such interest and, unless the Assembly or the committee otherwise directs, that member shall not take part in any consideration or discussion of, or vote on, any question touching on such matter.

Disclosure of interest

(2) The Chairman may request a member who has declared an interest under subsection (1) to leave the meeting during the time the Assembly is considering the matter in respect of which the interest was declared.

(3) A disclosure of interest shall be recorded in the minutes of the meeting at which it is made.

13. Subject to the other provisions of this Act, the Assembly may regulate its own procedure.

Procedure

PART IV-DISCHARGE OF FUNCTIONS

14.-(1) The Assembly shall establish the following committees

Service committees



- (a) the Finance Committee;
  - (b) the Development Committee;
  - (c) the Education Committee;
  - (d) the Works Committee;
  - (e) the Health and Environment Committee; and
  - (f) the Appointments and Disciplinary Committee.
- (2) The Assembly may establish other committees at a local government area level.
- (3) The Assembly may establish such other committees at ward, area or village level as it may determine
- (4) The composition of service committees and the committees established under subsections (2) and (3) shall be determined by the Assembly.
- (5) A service committee or other committee established under subsections (2) and (3) may in its discretion at any time and for any period invite any person to attend any meeting of such committee and take part in the deliberations at the meeting, but such person shall not be entitled to vote at the meeting.

15.-(1) Subject to any express provisions of this Act, the

Delegation to committees, etc

Assembly may arrange for the discharge of any of its functions by a committee, a sub-committee or an officer of the Assembly:

Provided that the Assembly shall not delegate its powers to

- (a) borrow money; or
- (b) make by-laws and Standing Orders;
- (c) levy a fate.

- (2) Where under this section any functions of the Assembly may be discharged by a committee of the Assembly, then, unless the Assembly otherwise directs, the committee may arrange for the discharge of any of those functions by a sub-committee or an officer of the Assembly and where any functions of the Assembly may be discharged by a sub-committee of the Assembly, then unless the Assembly or the sub-committee otherwise directs, the sub-committee may arrange for the discharge of any of those functions, by an officer of the Assembly.
- (3) Any arrangements made by the Assembly or a committee for the discharge of any functions by a committee, sub-committee, officer of the Assembly shall not prevent the Assembly by whom the arrangements are made from exercising those functions.
- (4) Two or more Assemblies may discharge any of their functions jointly and, where arrangements are in force for them to do so, the Assemblies may also arrange for the discharge of those

functions by it joint committee of theirs or by an officer of one of them and subsection (2) shall apply in relation to those functions as it applies in relation to the functions of the individual Assemblies.

16.-(1) For the purpose of discharging any functions in pursuance of arrangements made under section 15

Appointment of committees

(a) the Assembly may appoint a committee of the Assembly; or

(b) two or more Assemblies may appoint a joint committee of the Assemblies; or

(c) any such committee may appoint one or more sub-committees.

(2) The number of members of a committee appointed under subsection (1), their term of office, and the area within which the committees may exercise their authority shall be fixed by the appointing Assemblies or, in the case of sub-committees, by the appointing committee.

(3) Every member of a committee appointed under this section who at the time of his appointment was a member of the appointing Assembly or one of the appointing Assemblies shall upon ceasing to be a member of that Assembly also cease to be a member of the committee.

(4) The Assembly may invite any person to attend a meeting of a committee.

Provided that such person shall not be entitled to vote.

17. The expenses incurred by a joint committee of two or more Assemblies shall be defrayed by those Assemblies in such proportions as the Assemblies may agree.

expenses of joint committees

18. Sections 12 and 1-5 shall apply in respect of members of a committee of the Assembly or of a joint committee of two, or more Assemblies, including in either case a subcommittee, as they apply in respect of members of the Assembly subject to references to meetings of any such committee' being substituted for references to meetings of the Assembly.

Disability from voting on account of pecuniary interests

19. - The Assembly shall make Standing Orders for the regulation of such matters as may be necessary for the purposes of this Act.

standing orders

20.-(1) It shall be the duty of the chief Executive Officer of the Assembly if at any time it appears that any proposal, decision or omission by the Assembly or by any committee, sub-committee or officer of the Assembly has given rise to 'or is likely to give rise to or would give rise to

monitoring of assembly decisions

- (a) a contravention of this Act or any other written laws, Standing Order, by-law or regulation;
  - (b) any maladministration or injustice,
- to prepare a report to the Assembly with respect to that proposal, decision or omission.

(2) It shall be the duty of the Assembly to consider such report at a meeting held not more than fourteen days after copies of the report are first sent to the Assembly.

(3) The implementation of a proposal or decision to which a report under this section relates shall be suspended in consequence of the report until the end of the first business day on which consideration of that report has been concluded.

prohibition  
order

**21.**-(1) Where the Assembly-

- (a) is about to make or has made a decision which involves or would involve the Assembly incurring expenditure which is unlawful; or
- (b) is about to take or has taken a course of action which if pursued to its conclusion would be unlawful or likely to cause a loss or deficiency, or
- (c) is about to take or has taken a course of action which if pursued to its conclusion would be unlawful or contrary to national policies,

the Minister may issue an order requiring the Assembly to desist from making or implementing the decision or taking or continuing to take the course of action.

(2) Where the Assembly wilfully or negligently fails to comply with the order made by the Minister under subsection (1), the Minister may

- (a) surcharge the Assembly for the amount incurred as a result of the decision made;
- (b) surcharge the Assembly for the amount of loss or deficiency arising out of the course of action taken.

(3) Where the Assembly contravenes the provisions of section 21 (1) (c), the Minister may suspend the Assembly.

(4) Where an Assembly has been suspended under subsection

- (3), the Minister shall appoint a Commission which shall have the full powers to run the affairs of the Assembly until a decision of the High Court on whether the Assembly has acted unlawfully or contrary to national policies, or elections for a new Assembly are held, as the case may be.

(5) Where the Minister suspends the Assembly under subsection (3), the High Court shall, on the motion of the Minister or a member of the Assembly, determine whether the Assembly acted unlawfully or contrary to national policies.

(6) Where the High Court determines that an Assembly has acted unlawfully or contrary to national policies, the President shall dissolve the Assembly and elections for a new Assembly shall be held within ninety days from the date of dissolution.

22. A document which-

evidence of resolutions

- (a) purports to be a copy of a resolution, order or report of the Assembly or the minutes of a meeting of the Assembly; or
  - (b) bears a signature purporting to be signed by the Chief Executive Officer of the Assembly or a person authorized in that behalf by him or the Assembly,
- shall be *prima facie* evidence in any proceedings of the matters stated in the document.

23.- (1) The meetings of the Assembly including meetings of any committee, sub-committee or joint committee shall be open to the public and the press.

Admission to resolution

(2) The Assembly may by resolution exclude the public and the press whether during the whole or part of the proceedings whenever publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings and where such a motion is passed the meeting shall not be open to the public or the press during proceedings to which the resolution applies.

(3) Where a meeting of the Assembly is required to be open to the public and the press the following provisions shall apply

- (a) a notice of the time and the place of the meeting shall be given by posting it at the offices of the Assembly three clear days before the meeting;
- (b) while the meeting is open to the public and the press, the Assembly shall not have power to exclude from the meeting members of the public, and duly accredited representatives of the press attending for the purpose of reporting the proceedings shall be afforded reasonable facilities for making their report, including the provision of the agenda and reports to be considered at such meeting.

PART V-POWERS OF THE ASSEMBLY

24.- (1) An Assembly shall have power to-

General powers

- (a) subject to section 49, borrow or lend money;
- (b) acquire or dispose of any property or rights which is calculated to facilitate, or is conducive or incidental to, the discharge of any of the functions of the Assembly.

(2) The Assembly shall not by virtue of this section raise money, whether by means of rates or borrowing, or lend money except in accordance with the Finance and Audit Act.

Caps.37:01

(3) The Assembly shall have power to appoint and employ such persons as are necessary for the proper discharge by the Assembly of its functions.

(4) The Assembly shall have further powers and Functions as contained in the Second Schedule to this Act.

Staff regula-

**25.** The Assembly shall make regulations determining the conditions

tions

of service of officers of the Assembly.

Remuneration

**26.** The Assembly shall determine the salaries and allowance

Of officers

payable to its employees.

secondment of

public officers

**27.** Upon the request of the Assembly, a public officer may be public officers seconded to the Assembly for such periods and upon such terms and conditions as may be agreed between the Assembly and the organization from which that officer is seconded.

secondment

**28.** The Assembly may enter into an agreement with another

and exchange

Assembly whether in Malawi or elsewhere for the secondment of

of staff

any officer or exchange of officers for the purposes of their

functions or for training on such terms as may be provided in the agreement.

Security in rela-

tion to

property

**29.** The Assembly shall, in case of an officer entrusted with the custody or control of money or property, take such security, as the Assembly may consider necessary.

**30.** Every appointment of staff to a paid office of the Assembly shall be on merit.

Members not to

**31.** A member of the Assembly shall neither be an employee of be

be employees

the Assembly nor serve on full time basis.

Disclosure of

**32.**-(1) An employee of the Assembly or a consultant in the interest by service of the Assembly who, or whose immediate family member is indirectly interested in a private or professional or official capacity in any matter being considered by the Assembly, shall disclose such interest.

Interest by

(2) A disclosure of interest made under this section shall be made to the Chief Executive Officer of the Assembly who shall take such decision as he considers appropriate in each case and submit a report thereon to the Assembly.

Employees, etc

**33.** Every

(a) member of the Assembly;

oath of

(b) member of a committee of the Assembly;

secrecy

(c) employee of the Assembly; and

(d) consultant in the service of the Assembly,

shall, upon assumption of his office, take such oath of secrecy as may be approved by the Assembly or as may otherwise be prescribed under this Act.

34.-(1) For the purpose of -

Acquisition of  
land by agreement

(a) any of its functions under this Act or any other written law; or

(b) the benefit, improvement or development of its area,

the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area.

(2) The Assembly may acquire any land for any purpose for which the Assembly is authorized by this Act to acquire land, notwithstanding that the land is not immediately required for that purpose; and, until it is required for the purpose for which it was acquired under this subsection the land may be used for the purpose of any of the Assembly's functions.

35.-(1) The Assembly may dispose of land held by it in any manner it wishes.

Disposal of land

(2) Except with the consent of the Minister responsible for land matters, an Assembly shall not dispose of land under this section, otherwise than by way of a short tenancy or for a consideration not less than the market value.

(3) For the purpose of this section, a disposal of land is a disposal by way of a short tenancy if it consists

(a) of the grant of a term not exceeding three years; or

(b) of the assignment of a term which at the date of the assignment has not more than three years to run.

36.-(1) In any case where the consent of the Minister responsible for land matters is required to a dealing in land by the Assembly, that consent may be given -

General provisions  
on land transactions

(a) in relation to the Assembly in a particular class of transactions; and

(b) in relation to Assemblies generally or Assemblies of a particular class;

(c) either unconditionally or subject to such conditions as the Minister responsible for land matters may specify either generally or in relation to any particular transactions, or class of transactions.

(2) Where the Assembly purports to acquire, appropriate or dispose of land or buildings then

(a) in favour of any person claiming under the Assembly, the acquisition, appropriation or disposal so purporting to be made shall not be invalid by reason that any consent of the Minister

responsible for land matters which is required thereto has not been given or that any requirement as to advertisement or consideration of objections has been complied with; and

(b) a person dealing with the Assembly or a person claiming under the Assembly shall not be concerned to see or enquire whether any such consent has been given or whether any such requirement has been complied with.

(3) The Assembly may carry out any works of improvement or for the provision of services on any land owned or acquired by it and may develop or dispose of any land for development.

supply of goods  
and services

**37.** -0) The Assembly may enter into an agreement with another person for all or any of the following-

- (a) the supply by or to the Assembly of any goods and materials;
- (b) the provision by or to the Assembly of any administrative, professional, or technical services;
- (c) the use of any vehicle, plant, or apparatus and the services of persons employed to operate such vehicle, plant or apparatus; and
- (d) the maintenance of any land or building.

contracts

**38.**-(I) The Assembly may enter into contracts with any person for the provision or management of any service by that person which the Assembly is empowered by this Act, to provide or manage.

(2) The procedure for the making of contracts by the Assembly shall be laid down in Standing Orders made under section 19.

contributions to  
concurrent  
expenditure

**39.** Two or more Assemblies may make arrangements for defraying any expenditure incurred by one of them in exercising any functions exercisable by both or all Assemblies.

**40.**-(1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and the Assembly is of the opinion that it is likely to affect the whole or part of its area or all or some of its inhabitants, the Assembly may-

- (a) incur such expenditure as the Assembly considers necessary in taking action either alone or jointly with any other person or body which is calculated to avert, alleviate or eradicate in its area or among its inhabitants the effects or potential effects of the event; and

(b) make grants or loans to other persons or bodies on conditions determined by the Assembly in respect of any such action taken by those persons or bodies.

(2) The Assembly shall be responsible for making disaster-preparedness plans in accordance or conformity with any written law relating to or likely to affect their area of jurisdiction.

**41.** Subject to the provisions of this section the Assembly may accept, hold and administer-

Acceptance  
of gifts of  
property

(a) for the purpose of discharging any of its functions, gifts of property, whether real or personal, made for that purpose; or

(b) for the benefit of the inhabitants of its area or of some part of its area gifts made for that purpose,

and may execute any work including works of maintenance or improvement incidental to or consequential upon the exercise of the powers conferred by this section.

**42.** :- (1) The Assembly shall arrange for the publications within its area, of information related to local government, and shall make or assist in making arrangements whereby the public may readily obtain, either at premises specially maintained for the purpose or otherwise, information concerning the services available within the area of the Assembly.

provision of  
information

(2) The Assembly shall publish not later than six months after the end of each financial year an annual report of its work and of the local government affairs of its area for the preceding financial year, and a copy of such report shall be

(a) delivered to the Minister;

(b) deposited at every public Office of the Assembly and be made available for inspection free of charge by any interested person during normal hours of business; and

(c) supplied to any persons or to the press or other news media upon application on payment of such fee, if any, as the Assembly may prescribe.

**43.-** The Assembly may pay reasonable subscriptions to associations as it shall determine.

subscriptions  
to associations

#### PART VI-FINANCIAL PROVISIONS

**44.-**(1) The sources of revenue for the Assembly to finance its operations shall be those stated in the Third Schedule.

sources of  
revenue

(2) The Minister may, in consultation with the Minister responsible for finance, amend the third Schedule.



(3) The Minister may, subject to such terms and conditions as may be agreed upon with an appropriate public body, authorize that body to collect on behalf of the Assembly any revenue from the sources listed in the Third Schedule.

(4) The distribution of Government grants to the Assembly shall be done by the Government upon the recommendation of the Local Government Finance Committee in accordance with a formula approved by the National Assembly.

Secretariate of  
the local  
Government Finance  
Committee

**45.**The Local Government Finance Committee shall have a permanent Secretariat which shall be headed by a Fund Administrator

General fund  
and special  
funds

**46.**-( I) The Assembly shall establish and maintain a general fund and all monies received by the Assembly by way of revenue and grants shall be paid into such fund, and all expenses incurred by the Assembly in the execution of the powers and duties conferred upon the Assembly by or under this Act shall be defrayed out of such fund.

(2) The Assembly shall have power to create such special funds as it may deem necessary.

(3) The Assembly may, from time to time, issue instructions with regard to the general management, supervision and control of the funds established under subsections (1) and (2).

Assembly to  
Open bank  
account

**47.** The Assembly shall open and maintain a bank account for all revenues and other monies raised or received by it under this Act or any other written law.

Overdrafts  
Cap.37:01

**48.** The Assembly may, subject to the Finance and Audit Act, obtain an advance from a bank by overdraft:

Provided that the prior approval of the Assembly shall be obtained in any case where -  
(a) the amount of the overdraft required will exceed one sixth of the previous years' recurrent revenue of the Assembly; and  
(b) the overdraft is required for longer than six months.

Power to borrow  
Cap.37:01

**49.**The Assembly may, subject to the Finance and Audit Act, raise loans within Malawi of such amounts, from such sources, in such manner, for such purposes and upon such conditions as the Minister, in consultation with the Minister responsible finance, may approve.

Investment of  
funds

**50.** The Assembly may invest any portion of its monies funds in Government Treasury Bills or in other investments as may be approved by the Assembly.

**51.**-(1) The Assembly shall, not later than ninety days before the commencement of the financial year next ensuing, prepare detailed estimates of its revenue and expenditure for such financial year, and shall submit such estimates to the Local Government Finance Committee which may either approve the estimates as submitted or disallow such estimates in whole or in part or refer such estimates back to the Assembly for further consideration.

Annual and supplementary estimates

(2) The Assembly may in any year prepare and approve supplementary estimates of revenue and expenditure and such estimates shall be submitted for approval to the Local Government Finance Committee which may approve or disallow the estimates either wholly or in part.

**52.**-The Assembly shall not, except with the approval of the Local Government Finance Committee, incur any expenditure which has not been included in the approved estimates of the Assembly, but may, with the approval of the Local Government Finance Committee, make reallocations of any sum contained in such approved estimates.

Reallocation of approved estimates

**53.**-(1) The Assembly shall keep proper books of accounts and other records in relation thereto and shall balance its accounts for that year and produce statements of final accounts within six months from the end of each financial year.

Accounts

(2) The Assembly shall submit the final accounts to the Local Government Finance Committee which shall forward a copy to the Auditor General.

**54.**-(1) The accounts of the Assembly shall be audited by the Auditor General or an auditor appointed by him.

Audit of accounts

(2) The Auditor General may carry out surprise audit, investigations or any other audit considered necessary.

(3) The Auditor General shall give his report of the audited accounts to-

- (a) the Minister;
- (b) the Local Government Finance Committee; and
- (c) the Assembly.

(4) The Assembly shall have an Internal Audit Department.

**55.**-( I) After considering the report of the Auditor General, the Local Government Finance Committee shall have power to disallow any item of expenditure which is contrary to this Act and to surcharge-

Local Government Finance committee may disallow or surcharge

- (a) the amount of any expenditure disallowed on the person responsible for incurring or authorizing that expenditure;

(b) any sum which has not been duly brought into account by the person by whom the sum ought to have been brought into account or  
 (c) the amount of any - loss or deficiency 'Upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(2) Any person aggrieved by a disallowance or surcharge made by the

Local Government Finance Committee may appeal to the Minister.

(3) Any person aggrieved by a decision of the Minister may apply to the High Court for judicial review.

(4) Any sum surcharged on any person shall be payable to the Assembly within one month of written notification of the surcharge to such person -or, in the case of an appeal under subsection (2) or an application under subsection

(3), within one month of the decision of the Minister or the High Court if such decision confirms the surcharge, and shall be recoverable as a debt to the Assembly.

Power of  
 Minister to give  
 financial instructions

**56.** The Minister may, after consultation with the Minister responsible for finance issue written instructions, not inconsistent with provisions of this Act, for the better control and efficient management of the finances of the Assembly.

External assistance

**57.** All external assistance to the Assembly shall, except assistance from sister city, be routed through the Ministry of Finance.

Assistance from  
 Non-governmental  
 Organizations

**58.** Any assistance to the Assembly from a Non Governmental Organization shall be approved by the Minister in consultation with the Assembly.

superannuation  
 and retirement  
 provision

**59.** The financial year of the Assembly shall be the period beginning from the 1st day of July and ending on the 30th day of - June in the following year.

**60.**-( I) The Assembly may establish a superannuation fund for the be officers on their retirement from service of the Assembly and the dependants of deceased officers,

(2) The Assembly may establish a provident fund for the payment of gratuities to officers on their retirement from the service of the Assembly and to the dependants of deceased officers.

(3) No pension, provident fund payment, gratuity or other allowance or benefit payable under this section shall be assignable or transferable or liable to be attached or levied upon, for or in respect of any debt or claim except a debt due to or a claim made by the Assembly.

## PART VII-VALUATION AND RATING

**61. This Part shall apply to areas or parts thereof which the Minister shall designate by notice published in the *Gazette* as "rateable areas.**

Application

**62.** For the purpose of this Part-

Definitions

"improvements" includes any building structure or works ancillary thereto of a permanent or semi-permanent nature and shall include any plant or machinery installed in any building structure or ancill\_ work for the purpose of heating, ventilation, safety, drainage, lighting, supplying water, protection from fire or movement of passengers or goods but shall exclude any machinery or plant which is installed mainly for the purpose of manufacturing operations or trade processes;

"owner" means the person, other than a mortgagor Hut In possession, entitled with or without the consent of any other person to dispose of an interest in the property; .

"time of valuation" means the date of the passing of a resolution of the Assembly and shall be the' date at .which all valuations shall be deemed to have been made for the purpose of any valuation roll or supplementary valuation roll prepared during the continuance in force of such valuation roll.

**63.** All land within a local government area, together with all improvements of every description situated thereon shall be assessable property save the following-

Assessable  
property

(a) all streets;

(b) sewers and sewage disposal works;

(c) land and improvements used directly and exclusively as a cemetery, crematorium or burial ground;

(d) land and improvements used as a public open space; and

(e) railway lines used for transit.

**64.** In respect of any area which has not been designated by the Minister as a rateable areas under this Act or which for any reason has not been assessed or is not assessable, the Assembly may levy-

Levy of fixed  
sums

(a) a fixed sum upon the owners of buildings which sum may be different in respect of buildings used for different purposes; and

(b) a fixed sum per unit of area of land or a fixed sum per unit' of superficial area or both such fixed sums.

preparation of  
valuation roll

**65.**-(1) The Assembly shall continuously or from time to time and in any event not less than once in every five years, cause to be made and entered into a valuation roll for the local government area a valuation of all assessable property within such area.

(2) Such valuation roll shall take effect on the date of the commencement of the next rate period following the date of such roll:

Provided that, where the interval between such dates would be less than three months, if the Assembly so decides within the said interval, such valuation roll shall take effect on the date of the commencement of the next but one rate period following the date of the said valuation roll.

(3) A valuation roll shall cease to be current on the date on which a new valuation roll completed in pursuance of subsection

(1) shall take effect.

supplementary  
valuations

**66.**-(1) The Assembly shall either continuously in any case not less than once in

twelve months cause a valuation to be made-

- (a) of any assessable property or part thereof discovered to have been omitted from the last preceding valuation;
- (b) of any new building or structure or any improvements or part thereof erected, made or completed since the completion of the last preceding valuation roll;
- (c) of any assessable property which, from any cause particular to such property arising since the time of valuation has materially increased or decreased in value;
- (d) of any assessable property, the identity of which has, since the completion of the last preceding valuation roll been changed by subdivision, consolidation or alteration of boundaries by re-survey;
- (e) of any assessable property brought subsequent to the completion of the last preceding valuation roll within the local government area by reason of an alteration in the boundaries of the local government areas and such valuation shall be entered in a supplementary valuation roll.

(2) When any property included in any existing valuation roll has been excluded from the local government area, particulars of such property shall be included in a supplementary valuation roll and the valuation ascribed therein to such property shall be nil.

(3) Pending the inclusion of any supplementary valuation roll of any property referred to in subsection U) (b) the Assembly on issuing a certificate of substantial completion or a certificate of occupation under any written law, or which is otherwise satisfied

that the improvements are occupied or used or is capable of occupation or use, or upon any date upon which the improvements are deemed or stipulated to have been completed pursuant to any condition in any consent granted under the Town and Country Planning Act or a by-law or in terms of a condition it) a building agreement, may estimate the value of the property as if it had been completed or occupied and may levy a rate calculated on such estimated value which shall become due and payable on the next date on which the general rate becomes due and payable. cap.23:01

**67.** Every valuation and the preparation of valuation rolls and supplementary valuation rolls shall be undertaken by a valuer registered under the Land Economy Surveyors, Valuers, Estate Agents and Auctioneers Act. valuer cap.53:08

**68.--(1)** Every valuation roll and supplementary valuation roll shall in respect of every assessable property included therein show separately Method of valuation

(a) the total valuation of the 'assessable property;

(b) the value of the assessable land; and

(c) the value of the assessable improvements situated there on,

and shall also show what are, to the best of the knowledge and belief of the valuer, the name and address of the owner and the situation and area of the land and shall contain a description of the property in such a way as to provide adequate identification of the property and every supplementary valuation roll shall in addition show the valuation, if any, appearing in the valuation roll to which any entry in the supplementary valuation roll refers:

Provided that where in the opinion of the valuer the total value of any assessable property is less than a sum as may from time to time be prescribed by the Minister by notice published in the *Gazette*, the words "Minimum value" shall be inserted in the valuation roll or supplementary valuation roll as the case may be.

(2) The total valuation of an assessable property shall represent the fair price or sum which the property would have been likely to realize if it were in existence and in a reasonable state of repair having regard to the type of property and the area in which it is situated and sold at the time of valuation by a willing vendor to a willing purchaser upon the usual terms and conditions and on the assumption that such property was freehold and that there were no leases or mortgages in existence in respect thereof and disregarding any circumstances of a temporary nature.

..

(3) The valuation of the land shall be made on the assumption that it was without improvements other than the clearing of the land of trees, undergrowth or rock or the levelling or draining of the land or works of a similar nature at the time of valuation:

Provided that account shall be taken-

- (a) of the nature of any improvement on neighbouring land;
- (b) of any public services available to the land; and
- (c) of any provisions of or derived from any law relating to town planning as it, affects the land or neighbouring land.

(4) The value of improvements shall be the difference between the total value of the assessable property and the value of the land.

supplementary  
valuation roll to  
be part of main  
roll

**69.** Every supplementary valuation roll shall be deemed to be part of, and to be included in, the valuation roll last compiled in accordance with section 65 and where any entry relating to any assessable property appears in a valuation roll the former entry shall be deemed to have been deleted and superseded by the latter entry as from the effective date of the supplementary valuation roll:

Provided that where the entry is made in a supplementary valuation roll, the entries in relation to such property shall be deemed to be deleted from the valuation roll.

alteration of  
valuation roll

**70.** The Assembly may, as often as it considers, cause a valuation roll or a supplementary valuation roll for the time being in force to be altered for any of the following purposes

- (a) to correct any clerical error not affecting any valuation;
- (b) to correct any error as to, or to record any change in, the name or address of owner;
- (c) to correct any error in the description of any assessable property provided that there is no alteration in value; and
- (d) to correct the description of the situation of any assessable property in consequence of *the* naming or renaming of a street or through any other similar causes.

Correction of  
errors

**71.** The valuer may include in any supplementary roll an entry correcting any error in the valuation roll then in force and the effective date of the correction shall be that of the original entry

Effective date of  
supplementary  
valuation roll

**72.**-(1) Any assessable property included in a supplementary valuation roll shall be liable to assessment upon the valuation shown therein from the date when the last proceeding valuation roll became effective.

(2) Any improvements or part thereof included in a supplementary valuation roll shall be liable to assessment upon the new valuation shown therein from the date that a certificate of occupation or completion was issued.

(3) Any improvements or part thereof included in a supplementary valuation roll shall be liable to assessment upon the new valuation shown therein *from* the date upon which the cause of the increase or decrease in value was effective.

(4) Any assessable property included in a supplementary valuation roll shall be liable *for* assessment. upon the valuation shown therein *from* the date of the Deed of Conveyance or Registration of Title which affects the change of identity.

(5) Any assessable property included in a supplementary valuation roll shall be liable *for* assessment upon the valuation shown therein from the effective date of the alteration of boundaries under which the property was included in the local government area.

(6) Any property included in a supplementary valuation roll shall cease to be liable *for* assessment *for* rating from the date of alteration of the boundaries under which the property was excluded *from* the local government area.

**73.**-(1) A valuer, duly authorized *for* the purpose *of* making a valuation, shall have power to enter at all reasonable times property within the local government area without being liable to any action or other proceeding on account thereof:

powers of entry

Provided that admission to any dwelling house shall not be demanded as a right unless fourty-eight hours notice of the intended entry has been given to the occupant.

(2) Any person who wilfully obstructs a valuer from exercising the powers conferred upon him by this section shall be liable upon conviction to a fine not exceeding K5,000 or to imprisonment *for* a term of six months or both such fine and imprisonment and where the offence continues, to a fine of K1,000 *for* each day that the offence continues.

**74.**-(1) A valuer, may at any time serve a notice on any person in apparent occupation or charge of, or upon the owner of, any assessable property requiring such person or owner to supply such information as may reasonably be required by the valuer to enable him correctly to value such property.

Provision of information to the valuer

(2) Every person upon whom a notice has been served under subsection (1) shall, within twenty-eight days after the date of such service, supply such information in such *form* and in such *manner* as is required by such notice and for the purposes of this subsection a notice served by post shall be deemed to have been served within seven days of posting unless the contrary is proved.

(3) If any person on whom notice has been served fails, without reasonable excuse, to comply with the notice, or wilfully refuses to answer questions to the best *of* his knowledge and belief, or



knowingly makes or gives any false statement he shall be liable conviction to a fine not exceeding K5,000 or to a term of imprisonment for a term of six months or both such fine and imprisonment and, where the offence continues, to fine of KI,000 for each day that the offence continues.

Deposit of valuation roll

**75.**-(1) Upon the completion of a valuation supplementary valuation roll the valuer shall

- (a) deliver to the Chief Executive Officer of the assembly the said valuation roll signed and dated by him;
- (b) certify therein that the said valuation roll has been completed by him in accordance with this Act; and
- (c) specify therein the time of valuation.

(2) As soon as possible after any valuation roll or supplementary valuation roll has been delivered to him in accordance with subsection (1) the Chief Executive Officer of the Assembly shall publish in the *Gazette* and at least one newspaper circulating in the local government area a notice and may cause an announcement to be made on a broadcasting service that the said valuation roll is open to inspection in the offices of the Assembly, and such valuation roll shall be so open to inspection.

(3) Any interested person may, without payment, at any time during which the offices of the Assembly are open for business, inspect such valuation roll and copy information.

Objection to variation roll

**76.** -(1) Any person who is aggrieved-

- (a) by the inclusion of any property in, or by the omission of any property from, any valuation roll; or
- (b) by any value ascribed in any valuation roll or supplementary valuation roll to any assessable property, or by any other entry made or omitted to be made in the same with respect to any assessable property, may object to the valuer at any time before the expiration of twenty-eight days from the first day on which the rate is payable.

(2) Any objection given under subsection (1) shall be in writing and shall specify the grounds of the objection.

(3) Upon receipt of an objection under subsection (1) the valuer

- (a) in the case of an objection to the inclusion or omission from the valuation roll of any property may if he thinks fit alter the valuation roll accordingly.
- (b) in the case of an objection to a valuation shall cause the property in question to be reassessed and may alter the valuation downwards or upwards or confirm the original valuation

and shall set out in writing to the person objecting the reasons for such decision.

**77.** The valuation on assessable property shown in an uncontested valuation roll or supplementary valuation roll or those valuations in respect of which the decision of a valuation court has been given shall, for the purposes of this Act, be conclusive evidence of the value of properties included in such valuation roll or supplementary valuation roll of properties.

valuations rolls to be  
conclusive evidence

**78.** The rates levied upon a property in respect of which an Payment of objection or appeal has been lodged shall be payable according to valuation appearing in the valuation roll or supplementary valuation roll pending the determination of the objection or appeal.

payment of rate  
pending the hearing  
of an objection or  
appeal

**79.**-( 1) In every financial year a rate shall be made and levied Duty to levy by the Assembly to meet all liabilities falling to be discharged out rates of the general fund for which provision is not otherwise made.

Duty to levy

(2) Every rate shall be made and levied upon the assessments appearing in the valuation roll.

rates

(3) Any rate may be made -and levied separately upon the valuation of land and upon the valuation of improvements and such rate may, as regards such separate valuations, differ in the amounts made and levied thereon.

(4) Notwithstanding subsection (2), the Assembly may differentiate between areas and between different classes of property within the local government area as regards the amount of such rate.

(5) A minimum charge in such sum as may be prescribed by the Minister for any financial year in respect of any rateable property in respect of any rate made and levied under this section shall be levied in respect of every property to which a minimum value has been ascribed.

**80.** Every rate shall be made in respect of a period commencing immediately after the expiration of the last preceding period in respect of which a rate was made and terminating on such date as may be fixed by the Assembly and, in the case of the last rate to be made in any financial year, the date so fixed shall be the last day of such year.

period of rate

**81.** Every rate shall become due on the first day 'of the rate Date on which period and shall become payable on a date in the financial year to rate is payable which it relates as shall be fixed by the Assembly:

Date on which  
rate is payable

Provided that the Assembly may authorize the payment of any rate in arrears by Instalments on such dates during the rate period as it may specify.

Notice of rate

**82.** Notice of the making of every rate shall be given by the Assembly not less than twenty-one days before the date on which it becomes payable in the *Gazette* and in a newspaper circulating in the local government area and in such other manner, if any, as the Assembly may direct and such shall specify the instalment dates, if any, upon which such rates may be paid, and the date of termination of the rate period in respect of which it is made.

Remission of rate

**83.**-(1) The Assembly shall remit in full the payment of rate on-

- (a) vacant and unalienated public land;
- (b) land and improvements used exclusively for public religious worship;
- (c) land and improvements used directly and exclusively as a public library or public museum;
- (d) land and improvements owned by a hospital or other institution for the treatment of the sick;
- (e) land and improvements owned by an educational institution;
- (f) land and improvements owned by a club, society or other institution for the purposes of sport other than improvements used primarily for activities and directly connected with sport.

(2) This section shall not apply to any separate buildings used as residence for staff or the use of any premises or part thereof for profit or such other premises as the Minister may, by notice in the *Gazette*, specify.

**84.** No rate shall be made or levied in respect of assessable property owned by diplomatic missions as may be approved by the Minister of Foreign Affairs.

Government to

**85.** The Government shall pay to the Assembly fifty *per centum* of the amount of rates on its assessable property.

Pay rates

Payment of rates

**86.**-(1) Where the Assembly has given notice under section 82 of the day on which a rate levied or instalment thereof will become payable, it shall be the duty of every person liable to pay such rate, or instalment thereof, to pay the amount of such rate or instalment thereof to the Assembly as per the statement issued by the Assembly.

(2) The Assembly shall make a surcharge on any rate remaining unpaid sixty days after the date on which such rate becomes

payable, such surcharge shall be payable from the date on which the rate first became payable and may be recovered in the like manner.

(3) The surcharge made under subsection (2) shall be calculated at the rate of four *per centum* per month or part thereof.

**87.**-(1) The person who at the date the rate becomes due is the owner of any assessable property and shall be liable for the payment of the rate:

Liability for rates

Provided that joint owners of assessable property shall be jointly and severally liable for the payment of the rate

(2) In the absence of any agreements to the contrary, the owner shall be entitled to recover from the former rateable owner - any rate paid by or recovered from him in respect of ownership of the property by such former owner.

**88.** All rates made and levied upon the value of assessable property shall be entered in a form of permanent record to be prepared and maintained by the Assembly and in addition to any other matters which may be entered therein, shall show in respect of each assessable property

Rates records

- (a) the plot or street number and situation or other identification;
- (b) the name and address of the owner;
- (c) the valuation shown in the valuation roll in force on the land and of improvements; and
- (d) the amount of rates made and levied.

**89.** In any proceedings to levy or recover rates or consequent on the levying or recovering of any rates, the valuation rolls and rates records and all entries made therein and extracts or certified copies thereof signed by the Chief Executive Officer of the Assembly and all copies of any notice required under this Part, shall upon production thereof, be evidence of the levying of such rate and the contents of such extracts, certified copies or notices.

Evidence of rates

**90.**-(1) Notwithstanding anything to be contrary contained in section 87 and in every case in which a rate has been made and levied upon any property, such rate shall without registration under any law relating to the registration of charges upon land, be a charge upon such property, and the whole amount thereof shall be recoverable from the person who was the owner of such property at the time such rate was made and levied, or from any subsequent owner of such property:

Rates to be a charge upon the property

Provided that a subsequent owner shall become liable for rates due for any period prior to the date of issue of a rate certificate

only for the amount stated in the certificate or the amount due whichever is less.

(2) The Chief Executive Officer of the Assembly shall on request by the owner and on payment of a fee to be fixed by the Assembly give a statement setting out in respect of any property the amount of the rates outstanding on the property at the date of issue and such statement shall be known as a rate certificate.

Seizure of property

In default

- 91.**-(1) In addition to any remedy provided under Part VI relating to recovery of debt, if any sum due for any rate levied on any assessable property remains unpaid for a period of three years after the date upon which such sum became payable the Assembly shall publish a notice in the *Gazette* and a newspaper circulating within the local government area showing the name and address of the owner, the description of the property, the amount of rates outstanding, requiring the owner to pay the arrears within thirty days of the date of the publication of the notice.
- (2) If the arrears are not paid within the period stated in subsection (1) after notice to any mortgagee, the property shall be seized by the Assembly through a court of law and thereafter sold by public auction in satisfaction of the rate due.
- (3) The Assembly shall give notice of the sale by advertisement in the *Gazette* and a newspaper circulating within the local government area.
- (4) The owner may recover possession of the property by paying in full all arrears and expenses incurred by the Assembly at any time before the sale.
- (5) In the event of sale the Assembly shall retain out of the proceeds the amount of arrears and surcharge and the costs of sale which shall have priority over any other registered or unregistered interest in the property and shall be charged as trustee to those who may be entitled to the balance if any, of the proceeds of the sale.
- (6) A sale of a property under the provisions of this section shall pass a good and sufficient title.
- (7) Nothing in this section shall prevent the Assembly from taking proceedings for recovery by ordinary action in the court.
- (8) No liability for error or irregularity shall attach to the Assembly or to any employee of the Assembly arising from the exercise by the Assembly of powers granted under this section.

#### PART VIII-GENERAL PROVISIONS RELATING TO THE ASSEMBLY

Legal proceedings

**92.**-(1) Where the Assembly considers it expedient for the promotion or protection of the interests of the inhabitants of the area, the Assembly-

(a) may prosecute or defend or appear in any legal proceedings and may institute legal proceedings in its own name; and  
 (b) may, in its own name, make representations in the interests of the inhabitants at any public inquiry under any written law.

**93.** The Assembly shall make proper arrangements with respect to keeping any documents and notices which belong to or are in the custody of the Assembly or any of its officers.

Documents and notices, etc.

**94.** -(1) The minutes" of proceedings of a meeting of the Assembly shall be open to the inspection of any person and any such person may make a copy of or extract from the minutes.

Inspection of documents

(2) Any person may inspect and make a copy of or extract from an order for the payment of money made by the Assembly.

(3) The accounts or abstracts of accounts of the Assembly shall be open to the inspection of any member of the Assembly or any other person and any such member or other person may make a copy of the extract from the accounts or abstracts of accounts therefrom, and copies thereof shall be delivered to any such person on payment of a reasonable sum for each copy.

(4) A document directed by this section to be open to inspection shall be so open upon payment of a reasonable sum during the Assembly's normal hours of business.

(5) Any person having the custody of any such document who-

(a) obstructs any person entitled to inspect the document or to make a copy thereof or extract therefrom in inspecting the document or making a copy or extract;

(b) refuses to give copies or extracts to any person entitled to obtain copies or extracts,  
 commits an offence and shall be liable on conviction to a fine not exceeding KI ,000.

copies of documents

**95.** Any requirement imposed by any written law that the Assembly shall keep a document of any description shall be satisfied by the Assembly keeping a copy of the document.

**96.** The Assembly shall send to the Minister such reports and returns and give him such information with respect to their functions as he may require.

**97.** Any notice, order or other document required to be given to or served on the Assembly shall be given or served by addressing it to the Assembly.

service of notices on the Assembly

**98.** A public notice to be given by the Assembly may be given-

(a) by posting the notice in some conspicuous place or places within the area of the Assembly; and

Service of  
notice by the  
Assembly

(b) in such other manner, if any, as appears to the Assembly to be desirable for giving publicity to the notice.

**99.**-(1) Subsections (2), (3) and (4) shall have effect in relation to any notice, order or other document required or authorized by or under any written law to be given to or served on any person by or on behalf of the Assembly or by an officer of the Assembly.

(2) Any such document may be given to or served on the person in question either by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) Any such document may-

(a) in the case of a body corporate, be given to or served on the secretary of that body;

(b) in the case of a partnership, be given to or served on a partner or a person having the control or management of the partnership business.

(4) For the purposes of this section the proper address of any person to or on whom a document is to be given or served shall be his last known address, except that-

(a) in the case of a body corporate or their secretary, it shall be the address of the registered or principal office of that body corporate;

(b) in the case of a partnership or a person having the control or management of the partnership business, it shall be that of the principal office of the partnership,

and for the purposes of this subsection the principal office of a company registered outside Malawi or for a partnership carrying on business outside Malawi shall be their principal office within Malawi.

(5) For the purpose of enabling any document to be given to or served on the owner or lessee of any premises, the Assembly may by notice in writing require the occupier of the premises to state the name and address of the owner or lessee, and if the occupier refuses or wilfully neglects to do so, or wilfully mistakes the name and address of the owner or lessee, he shall, unless in the case of a refusal he shows cause to the satisfaction of the Court for his refusal, be liable on conviction in respect of each offence to a fine not exceeding K1,000.

(6) Where the name or address of any owner, lessee or occupier of land to or on whom any document mentioned in subsection (1) above is to be given or served cannot after reasonable inquiry be ascertained, the document may be given or served either by leaving it in the hands of a person who is or appears to be resident or employed on the land or by leaving it conspicuously affixed to some building or object on the land.

(7) The foregoing provisions of this section shall not apply to a document which is to be given or served in any proceedings in court.

**100.**-(1) Any notice, order or other document which the Assembly is authorized or required to give, make or issue may be signed on behalf of the Assembly by the Chief Executive Officer of the Assembly.

Authentication of documents

(2) Any document purporting to bear the signature of the Chief Executive Officer of the Assembly shall be deemed, until the contrary is proved, to have been duly given, made or issued by the authority of the Assembly.

**101.** Subject to the Constitution, any person duly authorized in writing for the purpose by the Assembly may at all reasonable times enter any premises within the local government area for the purpose of the performance of the functions of the Assembly specified in such authorization:

Powers of entry

Provided that admission to any dwelling house shall not be demanded as of right unless forty-eight hours notice of the intended entry has been given to the occupant.

**102.** Any person who-

Obstruction of officers on duty

(a) wilfully obstructs any officer of the Assembly in the execution of his duty as such; or

(b) being the occupier of premises, prevents the owner of such premises from complying with any lawful requirement of the Assembly; or

(c) being the occupier of premises, on demand refuses or wilfully mistakes the name of the owner of such premises or of the person receiving or authorized to receive the rents of such premises, shall be guilty of an offence and be liable on summary conviction to a fine of K1,000 or to imprisonment for a term of three months or to both such fine and imprisonment

**103.** The Assembly may make by-laws for the good rule and government of the whole or any part of the local government of area or, as the case may be for the prevention and suppression of nuisances therein and for any other purpose.

By-laws

**104.**-(1) The by-laws shall be made under the common seal of the Assembly and shall not have effect until they are approved by the Minister.

Procedures for by-laws

(2) At least fourteen days before application for approval of the by-laws is made, notice of the intention to apply for approval shall be published in the *Gazette* and in one or more local newspapers circulating in the area to which the by-laws are to apply and such



notice shall include representations in writing from any person wishing to make any observation upon or an objection to such proposed by-law. A copy of every such representation or objection shall be forwarded by the Assembly to the Minister.

(3) For at least fourteen days before application for approval is made, a copy of the by-laws shall be deposited at the offices of the Assembly by whom the by-laws are made, and shall be open to public inspection without payment of any *fee* during the Assembly's normal hours of business.

(4) The Assembly by whom the by-laws are made shall, on application, furnish to any person a copy of the; by-laws, or of any part thereof, on payment of such sum as the Assembly may determine.

(5) The Minister may approve or refuse to approve any by-laws, and may fix the date on which the by-laws are to come into operation and if no date is so fixed the by-law shall come into operation at the expiration of fourteen days from the date of its approval.

(6) A copy of the by-laws, when approved, shall be published in the *Gazette* and shall be printed and deposited at the offices of the, Assembly by whom the by-laws are made, and shall at all reasonable hours be open to public inspection without payment, and a copy thereof shall, on application, be furnished to any person on payment of such sum, for every copy, as the Assembly may determine.

Offences against  
By-laws

**105.** By-laws may provide that persons contravening the by-laws shall be liable on conviction to a fine not exceeding the sum of K2,000, and in the case of a continuing offence a further fine not exceeding K200 for each day during which the offence continues after conviction thereof or to a term of imprisonment not exceeding six months or both such fine and imprisonment

Evidence of by-  
laws

**106.** The production of a printed copy of a by-law to be made by the Assembly upon which is endorsed a certificate purporting to be signed by the Chief Executive Officer of the Assembly stating-

- (a) that the by-law was made by the Assembly;
- (b) that the copy is a true copy of the by-law;
- (c) that on a specified date the by-law was approved by the Minister;
- (d) the date, if any, fixed by the confirming authority for the coming into operation of the by-law;

shall be *prima facie* evidence: >f the facts stated in the certificate without proof of the handwriting or official position of any person purporting to sign the certificate.

**107.** Where the day or the last day on which any thing is required or permitted to be done by or by virtue of any provision to which this section applies is a Saturday or Sunday, Christmas Eve, Christmas Day, Good Friday, Martyrs Day or a public holiday or a day appointed for public mourning the requirement or permission shall be deemed to relate to the first day thereafter which is not one of the days specified in this section.

Computation  
of time

**PART IX-MISCELLANEOUS PROVISIONS**

**108.**-(1) If, on a petition presented to the, President by the Assembly praying for the grant of another status he may by the charter confer on that municipality the status, dignity and title of a city and thereupon the Assembly of the municipality shall bear the name of the Assembly of the city.

Status

(2) A petition for a charter under subsection (1) shall not be presented except on a resolution passed by not less than two-thirds of the members voting thereon at a meeting of the Assembly specially convened for that purpose.

**109.** - (1) The Assembly may confer such status, freedom, award or honour as the Assembly considers appropriate on any person, not being a member of the Assembly, who, or on any organization which, renders or has rendered eminent service to the, Assembly or its local government area..

Honorary  
appointment

(2) A recipient of the status, freedom, award or honour shall have the right to attend and take part in any civil ceremony or event of the Assembly but shall not have a right to attend meetings of the Assembly or any committee of the assembly or to receive any allowance or other remuneration.

(3) The Assembly shall not confer any status, freedom, award or honour under this section except by resolution of the Assembly passed by two thirds of the members of the Assembly voting thereon at a meeting of the Assembly convened specially for that purpose.

(4) The Chief Executive Officer of the Assembly shall keep a register of every recipient of the status, freedom, award or honour conferred under this section.

(5) The Assembly may spend from its revenue such reasonable sums as it considers fit to meet the cost of conferring any status, freedom, award or honour under this section.

Inquiries

**110.**-(1) Where the Minister is authorized to hold an inquiry under this Act relating to the functions of the Assembly, he may cause a local inquiry to be held.

(2) For the purpose of any such local inquiry, the person appointed to hold the inquiry may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or; under his control which relate to any matter in question at the inquiry, and may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation:

Provided that-

(a) no person shall be required, in obedience to such summons, to attend to give evidence or to produce any such documents, unless the necessary expenses of his attendance are paid or tendered to him; and

(b) nothing in this section shall empower the person holding the inquiry to require the production of the title or any instrument relating to the title of any land not being the property of the Assembly.

(3) Every person who refuses or deliberately fails to attend in obedience to summons issued under this section, or to give evidence to summons issued under this section, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this section, shall be liable on conviction to a fine not exceeding K2,000 or to imprisonment for a term of three months or to both of such fine and imprisonment.

(4) Where the Minister caused an inquiry to be held under this section, the costs incurred by him in relation to the inquiry including such reasonable sum as he may determine for the services of any officer engaged in the inquiry shall be defrayed under section 113 of this Act.

(5) The Minister causing an inquiry to be held under this section may make orders as to the costs of the parties at the inquiry.

Transfer  
of staff

**111.**-(1) The Minister may by order make provision for the transfer to the employment of a successor Assembly of any person who is the holder of any office or employment under the Assembly amalgamated with another Assembly for the protection of the interests of such persons.

(2) Any such order shall include such provision with respect to any person who is transferred under the order to a successor Assembly so as to secure that so long as he continues in the employment of the successor Assembly he enjoys terms and conditions not less favourable than those which he enjoyed immediately before the date of transfer.

(3) for the purpose of this section service with a successor Assembly shall be deemed to run from the date on which the officer was first employed by the Assembly and broken service shall be aggregated.

**112.** Where no other penalty is specified for an offence under this Act the penalty shall be a fine not exceeding K2,000 and in the case of a continuing offence a further fine not exceeding K200 for each day that the offence continues after conviction or a term of imprisonment not exceeding two years or both such fine and imprisonment.

penalties

**113.** There shall be defrayed out of monies provided by Expenses Parliament-

Expenses

(a) an expenses incurred by the Minister with respect to any provision of this Act;

(b) any increase attributable to the provisions of this Act in the sum payable out of moneys so provided under any other written law.

**114.**-(1) The following Acts are repealed-

Repeal

(a) the Local Government (Urban Areas) Act; and

and

(b) the Local Government (District Councils) Act.

Cap.22.01

cap.22.01

(2) Any subsidiary legislation made under the Acts repealed by subsection (1), in force immediately

before the commencement of this Act

(a) shall remain in force unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; .

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

(3) Any agreement or similar arrangement made pursuant to the provisions of the Acts repealed by subsection (1) shall continue in force until terminated in accordance with the terms and conditions thereof.

FIRST SCHEDULE  
LOCAL GOVERNMENT AREAS

*Local Government Area*

Blantyre City  
Lilongwe City  
Mzuzu City  
Zomba Municipality  
Balaka Township  
Dedza Township  
Karonga Township  
Kasungu Township  
Liwonde Township  
Luchenza Township  
Mangochi Township  
Salima Township  
Balaka District  
Blantyre District  
Chikwawa District  
Chiradzulu District  
Chitipa District  
Dedza District  
Dowa District  
Karonga District  
Kasungu District  
Lilongwe District  
Machinga District  
Mangochi District  
Mchinji District  
Mulunje District  
Mwanza District  
M'mbelwa District  
Nkhata Bay District  
Nkhotakota District  
Nsanje District  
Ntheu District  
Ntchisi District  
Phalombe District  
Rumphi District  
Salima District  
Thyolo District  
Zomba District

s.4

*Assembly*

Blantyre City Assembly  
Lilongwe City Assembly  
Mzuzu City Assembly  
Zomba Municipal-Assembly  
Balaka Town Assembly  
Dedza Town Assembly  
Karonga Town Assembly  
Kasungu Town Assembly  
Liwonde Town Assembly  
Luchenza Town Assembly  
Mangochi Town Assembly  
Salima Town Assembly  
Balaka District Assembly  
Blantyre District Assembly  
Chikwawa District Assembly  
Chiradzulu District Assembly  
Chitipa District Assembly  
Dedza District Assembly  
Dowa District Assembly  
Karonga District Assembly  
Kasungu District Assembly  
Lilongwe District Assembly  
Machinga District Assembly  
Mangochi District Assembly  
Mchinji District Assembly  
Mulanje District Assembly  
Mwanza District Assembly  
M'mbelwa District Assembly  
Nkhata Bay District Assembly  
Nkhotakota District Assembly  
Nsanje District Assembly  
Ntcheu District Assembly  
Ntchisi District Assembly  
Phalombe District Assembly  
Rumphi District Assembly  
Salima District Assembly  
Thyolo District Assembly  
Zomba District Assembly

SECOND SCHEDULE                      ss. 6 and 24  
 ADDITIONAL FUNCTIONS OF THE ASSEMBLY

- |  |                                     |
|--|-------------------------------------|
| <p><b>1.</b> An Assembly may-</p> <p style="padding-left: 20px;">(a) provide, maintain, equip and manage either alone or jointly with another Assembly or body, clinics including maternity clinics, health centres, and dispensaries and may enter into a scheme for the management of such facilities by the Ministry of Health or some other body upon such terms as to funding and otherwise as may be agreed between the parties;</p> <p style="padding-left: 20px;">(b) employ such medical professional and ancillary staff as may be required.</p>   | <p>clinical health<br/>services</p> |
| <p><b>2.-(1)</b> An Assembly may-</p> <p style="padding-left: 20px;">(a) establish, maintain and manage services for the collection and removal and treatment of solid and liquid waste, and the disposal thereof whether within or without its area and may compel the use of its services by any body of persons to whom the services are available;</p> <p style="padding-left: 20px;">(b) compel and regulate the provision, construction, use, maintenance and repair of drains, latrines and receptacles for solid and liquid waste and. the connection of any premises with any public sewer or drain;</p> <p style="padding-left: 20px;">(d) require the use of any sanitary service under its control and regulate the methods of dealing with night soil or solid or liquid waste of any description whatsoever:</p> <p style="padding-left: 20px;">Provided that nothing in this paragraph shall require an Assembly to accept for disposal any solid or liquid waste which in the opinion of the Assembly are hazardous or are likely to be deleterious to the operations of any sewage treatment, plant or land fill site or which may contaminate any ground water.</p> <p>(2) An Assembly may take necessary steps for the destruction and suppression of vermin or pests and for the fumigation and disinfestation of any premises or place.</p> | <p>Environment<br/>protection</p>   |
| <p>(3) An Assembly may prohibit or control any noxious or offensive trade within the meaning of the Public Health Act and the use of premises which may be - a source of nuisance, danger, discomfort or annoyance to the neighbourhood.</p>   | <p>caps.34.01</p>                   |
| <p>(4) An Assembly may seize and destroy any vicious, dangerous or apparently ownerless dog or a dog not vaccinated against rabies in accordance with the Control and Diseases of Animals Act.</p>   | <p>caps.66.02</p>                   |
| <p>(5) Subject to the provisions of the Public Health Act an Assembly</p> <p style="padding-left: 20px;">(a) shall have power to inspect premises where articles of food or drink are manufactured or prepared for use or are sold</p>   | <p>caps.34.01</p>                   |

whether for consumption on or off the premises or where meat, meat products, milk, milk products, fish and fish products are stored or processed and may control and license slaughter houses and the killing of livestock;

(b) may establish, maintain and manage abattoirs and cold storage facilities and premises for the processing of milk and milk products, meat and meat products and fish and fish products;

(c) may establish, maintain and manage public latrines, toilets, bathhouses, washing facilities and washhouses.

(6) Subject to the provisions of any other written law, an Assembly shall be responsible for the draining, cleansing and sanitation of its area and the prohibition and control of pollution of any water in any river or stream and for this purpose may prohibit or regulate the use of any of such river or stream and any river bank or streambank including any cultivation therein or the extraction of any sand, gravel or other material therefrom.

Cap.34:01

(7) Subject to the provisions of the Public Health Act, an Assembly may seize and destroy without compensation any article of food or drink which is or may be intended for human consumption; and shall keep a register of all articles so seized which Register shall be open to public inspection during the normal hours of business of the Assembly.

Cap.34:01

(8) Subject to the provisions of the Public Health Act, an Assembly shall take steps for the control and suppression and the prevention of the introduction of infectious diseases including the provision of isolation facilities.

(9) Subject to the provisions of any other written law, an Assembly may make provision for the supply of potable water by way of stand pipes, boreholes or other means and may, if it thinks fit, make reasonable charges to consumers and agree terms with any water undertaking or authority for the supply of water to any outlet or facility provided by the Assembly.

Burial of the  
dead

Cap.34:01

**3.** Subject to the provisions of section 28 of the Public Health Act, an Assembly-

(a) may establish, maintain and manage cemeteries and crematoria and mortuaries and provide funeral facilities;

(b) shall prohibit the disposal of human bodies otherwise than by interment in any cemetery or cremation at any crematorium established or permitted under the Public Health Act;

cap.34:01

(c) shall control the conveyance and disposal of any dead body within its area.

4. Subject to the provisions of the public Health Act, an Assembly shall-

control of nuisances  
Cap.34:01

- (a) secure the prevention and abatement of nuisances;
- (b) prohibit or control the keeping of any livestock or fowl or other- animals, birds or insects so that their keeping shall not be a public nuisance or injurious to health or to the environment;
- (c) control or prohibit, singing, dancing, the playing of musical instruments, fetes, exhibitions, public amusements or entertainments circuses and games and the making of any noise whatsoever likely to disturb any person;
- (d) require owners or occupiers to keep their premises free from offensive or unwholesome matter.

5.-(I) Without prejudice to the provisions of the Public Roads and Act, the National Roads Authority Act and the Urban Areas streets (Public and Private Streets) Act, an Assembly may-

Roads and streets  
cap.69:02  
(No.13 of 1997)  
cap.23:02

(a) enter into agency arrangements for the construction, maintenance and repair of any road or street within the area under the jurisdiction of the Controller of Roads upon such terms as may be agreed between the parties;

(b) establish, maintain and manage lighting in any street, public place or area;

(c) layout and adorn any street, square or open space the property of the Assembly, or of any other public body subject to agreement between the parties as to the cost thereof, and may maintain statues and other structures erected by the Assembly or vested in the Assembly by any person or body under any architectural scheme required by the Assembly;

(d) provide and maintain bus shelters, vehicle parking places, including places specifically set aside and maintained for the parking of heavy vehicles and street furniture and may levy charges on any parking place by simple resolution as the Assembly shall think fit.

(2) Subject to the provisions of any other written law, an Assembly shall have power to construct, level, pave, drain, alter, repair or clean any street, road, highway or footpath and to name any street.

(3) Subject to the provisions of any other written law, all Assembly may (a) institute measures for the control of traffic and may close or divert any road or street, prohibit or restrict the use of any road or street either generally or with respect to any particular type or category of vehicle;



(b) restrict or prohibit the parking of vehicles or any type or category of vehicle.

Hazardous materials  
cap.50:03  
cap.14.09

6. Subject to the provisions of the Petroleum Act and the Explosives Act, an Assembly may control and licence manufacture, storage, carriage and use petroleum products, explosives, fireworks and other combustible or hazardous materials.

Emergency services services

7.-(1) An Assembly may establish, maintain and manage ambulance and fire services including fire prevention services and may operate such services jointly with one or more Assemblies or public bodies, enter into reciprocal arrangements with other emergency services, authorities or operators, and provide, upon such terms as may be agreed between the parties, emergency services to another Assembly or public body.

(2) An Assembly shall take all reasonable measures for ensuring the provision of an adequate supply of water for fire fighting purposes and securing that it shall be available in case of fire and may enter into an agreement with a water undertaker therefore which the water undertaker shall not unreasonably refuse.

(3) An Assembly shall have power to secure for use in case of fire any water supply under the control of any person or body, to secure proper access to any such water and to lay and maintain pipes and carry out such other works as the Assembly may deem necessary.

(4) The Assembly's fire service shall have power to enter upon any premises and to use any water supply thereon to extinguish fire on adjacent premises or to prevent the spread of fire and shall pay reasonable compensation for the use of such water supply.

Public amenities

8.-(1) For the promotion of recreation, leisure and culture and the provision of amenities in its area, an Assembly may either itself or jointly with any other body establish, maintain and manage-

(a) parks, gardens, recreation grounds, open spaces, horticultural nurseries, botanical gardens, forests, woodlands, nature reserves and areas or places of special historical, cultural or scientific interests;

(b) sports fields and facilities, apparatus and equipment for games, sports and other recreation together with building structures, apparatus, refreshment, toilet and other facilities either itself or in association with any person, club, association or other body.

(c) swimming baths, bathing establishments and camping grounds;

(e) amenity areas, including the planting of flowers, plants, shrubs and trees in any street or road reserve or public open space or any private open space by agreement with the owner thereof;

(e) theatres, concert halls, art galleries, museums, public libraries and facilities generally to preserve, promote and develop the cultural life of Malawi.

(2) An Assembly may-

(a) set aside any part of any public park, recreation ground, sports field or other facility for the purpose of any particular sport, game or recreation and may exclude the public therefrom;

(b) reserve any part of any public park, recreation ground, sports field or other facility for any particular event and may permit any club, body, promoter or person exclusive use for that event upon payment of such fee as the Assembly may determine.

9. Subject to the provisions of the Public Health Act, the Town and Country Planning Act and any development plan or scheme made thereunder, an Assembly shall have power to-

(a) regulate the design, construction, alignment, elevation or siting of any new building or the alteration, refurbishment or improvement of any existing building, including the provision of access for disabled persons;

(b) require the demolition or rendering safe of any building or structure or part thereof which is dangerous or unfit for human habitation or occupation for structural, sanitary or other reason or otherwise constitutes a nuisance;

(c) regulate the amount of space to be allowed in and about buildings for securing proper ventilation and the free circulation of air;

(d) require the closing of any building or part thereof which by reason of its sanitary or other considerations is unfit for human habitation or occupation and impose conditions for the reopening thereof;

(e) require the clearing of any obstruction in any sanitary lane and demolish or require the demolition at the expense of the owner of any building or structure erected therein.

10.-(1) Subject to the provisions of any other written law, an Assembly shall be the licensing authority with respect to the following

(a) premises licensed for the consumption of alcohol whether on or off the premises;

Buildings and  
structures  
cap. 34:01  
cap.23:01

Control and  
licensing of  
business and  
trades

(b) business premises and shops for trade in any commodity, whether by retail or wholesale;

(c) itinerant traders;

(d) creches and nursery schools;

(e) barbers, hairdressers and beauticians;

(j) lodging and boarding houses and hotels and motels;

(g) private hospitals, nursing homes and maternity clinics, and shall have power to inspect, control, regulate and licence any premises used in connection therewith.

(2) Subject to the provisions of the Censorship and Control of Entertainments Act, an Assembly shall have power to licence, control, inspect and regulate premises or places used for entertainment recreation or public resort.

(3) Subject to the provisions of paragraph (1) (c), an Assembly may prohibit or control the sale of any wares on any street or any public place for the purpose of carrying out any trade, business or profession.

**11.- (I)** An Assembly may establish, maintain and manage markets and market buildings and premises within its area and shall levy upon traders within a market such fees or charges as the Assembly may decide.

(2) No person may establish or operate any market within a local government area:

Provided that an Assembly may grant a licence for the operation of a private market at such a fee and upon such terms and conditions as the Assembly shall determine or may refuse such licence:

Provided further that where the Assembly refuses to grant the licence, it shall give reasons in writing for the refusal.

(3) Any person aggrieved by the decision of an Assembly made pursuant to subparagraph (2) may appeal to the Minister.

(4) Where the Minister dismisses an appeal made under subparagraph (3), the appellant may apply to the High Court for judicial review.

(5) An Assembly may establish, maintain and manage agencies for the provision of postal services upon such terms as may be agreed with any postal authority or organization.

**12.-(1)** An Assembly may establish, maintain and manage any ferry service, rest-house, hotel, motel, inn, restaurant; canteen, eating house, bar, agricultural store or farm:

Provided that no new undertaking shall be commenced until the Assembly shall have received a report from the Chief Executive Officer of the Assembly upon the financial viability and the business plan for the proposed enterprise.

(2) The accounts of every trading undertaking shall be kept separately and shall comprise a trading and profit and loss accounts or kept in such other form as the Assembly may direct.

(3) Where in any two successive years any trading undertaking has failed to return such reasonable net profit as the Minister may prescribe, the Minister may direct that the Assembly shall-

(a) contract out by competitive tender the management of such undertaking or;

(b) dispose of its interest upon such terms and conditions as it may be recommended by the Assembly.

**13.**-(1) An Assembly shall be empowered to levy any charge it may think fit for the provision of any service notwithstanding that the costs of such service shall ordinarily be a charge upon the general fund.

fees and  
charge

(2) An Assembly shall -

(a) levy such fees as it shall think fit with respect to any business trading or other licence for which it is entitled to levy a fee or for any occupation of a site in any market owned and managed by it but shall not be entitled to waive or reduce any fee in any individual case:

(b) review all its fees and charges by 31 December in any year and at any other time it deems appropriate and any revised fees and charges shall come into effect at any time the Assembly so decides but not later than 1 July the succeeding year.

(3) An Assembly may enter into an agreement for the collection of any charge or fee by another Assembly or by any body or person upon such terms as may be agreed between the parties with respect to the commission payable and other conditions.

(4) In determining charges to be levied for the collection or treatment of liquid wastes an Assembly may calculate such charges upon the quantities collected or treated, the rateable value of the premises or the quantity of water supplied to the premises as metered by the water undertaker or upon such other basis as the Assembly deems fair and equitable.

**14.** An Assembly may make grants of money-

power to grant  
grant

(a) towards the establishment and maintenance of clinics, hospitals, dispensaries, maternity, nursing and auxiliary health

services within its area managed by another body or other person not for profit;

(b) to institutions and organizations established within its area for specific charitable, educational and welfare purposes where such purposes are available to and for the benefit of the general public in Malawi;

(c) to any committee, association or organization established for the carrying out of any function which the Assembly is empowered to carry out:

Provided that any application for a grant of money under this paragraph shall be accompanied by the audited accounts of the applicant and that the Assembly shall have considered a report thereon by the Chief Executive Officer of the Assembly prior to any grant of money being made

Tourism and  
conference

**15 - (I)** An Assembly may either alone or jointly with any other person or body-

(a) promote tourism and otherwise encourage persons, by advertisement or otherwise, to visit their area for recreation and for health purposes, and hold conferences, trade fairs and exhibitions in the area; and

(b) provide or encourage any other person or body to provide facilities for tourism, conferences, trade fairs and exhibitions or improve or encourage any other person or body to improve, any existing facilities for those purposes.

(2) Without prejudice to subsection (I), an Assembly may contribute to any organization established for the purpose of encouraging persons to visit Malawi.

Civic offices  
Halls and public

**16.** An Assembly may erect, acquire, or provide and furnish.-

Buildings

(a) offices and other buildings for the carrying out of any of the functions of the Assembly; and

(b) public halls, shelters and other structures for use as places for public assembly and public meetings.

Civic regalia,  
etc.

**17.** An Assembly may acquire, provide, adopt, use and maintain civic regalia, insignia, emblems, apparel and appurtenances appropriate to the status and dignity of the Assembly.

Housing

**18.-(I)** Subject to the directions of the Minister generally or in relation to any Assembly or class of Assemblies or in any particular case an Assembly shall have power to acquire land, lay out estates, provide or arrange for the provision of all necessary

services thereto and to design, construct and manage housing or provide building land for the benefit of-

(a) residents of the local government area at such rentals and upon such other terms as the Assembly shall decide;

(b) full-time permanent employees of the Assembly:

Provided that every lease or other permission to occupy any land or housing shall stipulate that such land or building shall be occupied by the owner except with the prior written consent of the Assembly upon such terms and conditions as the Assembly shall think fit and that any breach thereof shall entitle the Assembly to forfeit the lease or other permission without liability to pay compensation:

Provided further that nothing in this sub-paragraph shall prevent the owner from disposing of his interest in the property subject to the same stipulations.

(2) For the purposes of this paragraph, an Assembly may lease housing from another Assembly or body or person upon such terms as may be agreed.

**19.-( I) An Assembly shall have power to**

Miscellaneous

(a) compel the fencing or enclosing of plots and restrict or prohibit the use of barbed or razor wire, broken glass or any similar hazardous material on fences and walls;

(b) require the owner or occupier of any premises to remove, lower or trim any tree, shrub or hedge overhanging any road or street or interfering with or obstructing free passage of any wires, cables or works, or to remove any dilapidated or dangerous fence, wall or structure abutting upon any public place;

(c) prohibit any obstruction in any public place and provide for the removal of any obstruction at the owner's expense.

(2) Subject to the provisions of the Town and Country Planning Act, an Assembly shall have power to prohibit or control

cap.23:01

(a) the display of advertisements and advertising devices in or in the view of any street or public place which, in the opinion of the Assembly, would be likely to affect injuriously the amenities of or disfigure any neighbourhood or cause offence to the community or any section of it;

(b) the use of moveable advertising devices, flags, banners, lights or screens;

(c) the playing of music or the use of any loudspeaker or amplifier for advertising purposes in any street or public place or from a shop or premises adjoining or abutting onto any street or public place.

(3) An Assembly may prohibit or control the cultivation by unauthorized person of any public land and land reserved for any public road and of unenclosed or unoccupied land in private ownership.

(4) "Public place" means any place to which the public has access whether or not the land is in private ownership.

Management of  
the assembly's

**20.**(1) An Assembly shall prepare a plan for the management of land and buildings and other real property assets owned by or in the possession or under the control of the Assembly, which in addition to any other information which the Minister may require under sub-clause (2) shall contain

(a) a description of the property by reference to its plot number or location;

(b) the current use or uses;

(c) the planning designation under any District Physical Development Plan prepared or under preparation pursuant to the Town and Country Planning Act;

cap.23:01

(d) the value of the assets according to the entry in the Valuation Roll or Supplementary Valuation Roll if any or the Assembly's Register of Fixed Assets whichever is the higher;

(e) if the property is occupied by a lessee or tenant, the name and address of the lessee or tenant, the date of commencement and expiry of the term, the amount of rent payable, the dates for review of the rent, and whether the rent is a rack rent or a ground rent;

(f) if the property is leased or rented by the Assembly, the name and address of the lessor or landlord and otherwise the same information as is required by subparagraph (e);

(g) the future intentions of the Assembly with respect to the property and, if the land is held by the Assembly for development purposes, the nature of the development and the planned date of commencement;

(h) a description of the Assembly's general strategy for the management of its estates.

(2) The Assembly may prescribe the form of the Estates Management Plan which shall contain such information or explanations as it may think proper and may determine that the Plan shall be submitted to the Minister for his approval annually or at such other intervals as he may determine.

(3) A certificate of value issued by a registered valuer shall be *Prima facie* evidence of the market value in any disposal of any interest in land including a short tenancy.

**21.**-(1) An Assembly shall have a duty to draw up plans for the social, economic and environmental development of the area for such periods and in such form as the Minister may prescribe.

Development  
plans

(2) Development plans shall be prepared in conjunction and consultation with other agencies having a public responsibility for or charged with producing plans for development whether generally or specifically and affecting the whole or a substantial part of the Assembly.

**22.** The Assembly shall perform the following functions-

other functions

(a) education services, which cover nursery, primary and distance education;

(b) medical and health services including-

(i) hospitals, other than hospitals providing referral and medical training;

(ii) health centres, dispensaries, sub-dispensaries and first aid posts;

(iii) maternity and child welfare services;

(iv) the control of communicable diseases, including HIV/AIDS, leprosy and tuberculosis;

(v) control of the spread of disease in the local government area;

(vi) ambulance services;

(vii) primary health care services;

(viii) vector control;

(ix) environment sanitation; and

(x) health education;

(c) the provision and maintenance of water supplies in liaison with the Ministry of Water Development, where applicable;

(d) subject to the National Roads Authority Act, the construction, rehabilitation and maintenance of roads;

(No.13 of 1997)

(e) taking charge of all decentralized services and activities which include but are not limited to

(i) crop, animal and fisheries husbandry extension services;

(ii) entomological services and vermin control;



- (iii) human resources management and development;
- (iv) recurrent and development budget;
- (v) district statistics services;
- (vi) district project identification;
- (vii) district planning;
- (viii) local government development planning;
- (ix) land administration;
- (x) land surveying;
- (xi) physical planning;
- (xii) forests and wetlands;
- (xiii) licensing of produce buying;
- (xiv) trade licences;
- (xv) trade development services;
- (xvi) commercial inspectorate;
- (xvii) community police;
- (xviii) industrial relations;
- (xix) social rehabilitation;
- (xx) labour matters;
- (xxi) probation and welfare;
- (xxii) street children and orphans;
- (xxiii) women in development;
- (xxiv) community development;
- (xxv) youth affairs;
- (xxvi) cultural affairs;
- (xxvii) district information services;

(f) regulate, control, manage, administer, promote and licence any of the things or services which the Assembly is empowered or required to do, and establish, maintain, carry on, control, manage or administer and prescribe the forms in connection therewith to fix fees or charges to be levied in that respect;

(g) aid and support the establishment and maintenance of schools, hospitals, libraries, art galleries, museums, tourist centres, homes for the aged, destitute or infirm or for the orphans, and to provide bursaries to assist in the education of children of persons residing in the local government area, to make donations to charitable and philanthropic, welfare, youth, persons with disabilities, women and sports organizations;

(h) preserve public decency, and to prevent offences against public order in public places and to prevent damage to property of the Central Government and the Assembly;

- (i) undertake private works and services and to charge, recover the costs and contract out public services to the private sector;
- (j) sell all by-products resulting from carrying on by or on behalf of the Assembly, of any works or services;
- (k) promote publicity for the Assembly:
  - (l) promote schemes of health, education and road safety sensitisation;
  - (m) provide and manage
    - (i) sporting and recreational facilities and programmes of informal education for both adults and young people including the running or provision of community centres;
    - (ii) the development of social work among adults;
    - (iii) remedial social welfare programmes aimed at the alleviation of social distress;
    - (iv) the welfare of children and the elderly; and
    - (v) public vehicular parking;
  - (n) the registration of marriages, births and deaths for transmission to the Registrar General;
  - (o) assist Government to preserve the environment through protection of forests, wetlands, lake shores, streams and prevention of environmental degradation;
  - (p) upon delegation by Government, identification and preservation of sites and objects or buildings of historical and architectural value; and
  - (q) any other service or function which the Government may delegate to the Assembly.

### THIRD SCHEDULE

s.44

#### SOURCES OF REVENUE FOR THE ASSEMBLY

1. Locally generated revenue which shall include but shall not be limited to
  - (1) Property rates;
  - (2) Ground rent;
  - (3) Fees and licences;
  - (4) Commercial undertakings; and
  - (5) Service charges.
2. Government grants.
3. Ceded revenue.

... Passed in Parliament this second day of December, one thousand, nine hundred and ninety-eight.

R. L. GONDWE  
*Clerk of Parliament*