

(Published 5th April, 2023)

Act

No. 16 of 2023

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
4th April, 2023

ARRANGEMENT OF SECTIONS

SECTION

- 1. Short title
- 2. Amendment of s. 2 to Cap.42:01
- 3. Insertion of new Part VIIIA into the principal Act
- 4. Amendment of s. 77C of the principal Act
- 5. Repeal of Schedule C of the principal Act

An Act to amend the Customs and Excise Act

ENACTED by the Parliament of Malawi as follows—

- 1. This Act may be cited as the Customs and Excise (Amendment) Act, 2023. Short title
- 2. The Customs and Excise Act (hereinafter referred to as the “principal Act”) is amended, in section 2— Amendment of s. 2 to Cap. 42:01
 - (a) in the definition of the word “duty”, by deleting the word “withholding” and substituting therefor the words “advance income”; and
 - (b) by inserting, in the correct alphabetical order, a definition of “export warehouse”, as follows—
 - ““export warehouse” means a customs-controlled place licensed by the Commissioner General for the deposit of goods prior to their exportation and from which export customs clearance formalities may be carried out;”.

Insertion of
new Part
VIII A into the
principal Act

3. The principal Act is amended, by inserting, immediately after Part VIII, a new Part VIII A as follows—

“PART VIII A—EXPORT WAREHOUSES

Licensing of
export
warehouses

57A.—(1) A person who intends to operate an export warehouse for the deposit and security of export goods shall obtain a licence for operating the warehouse from the Commissioner General.

Cap.42:01 sub.
leg. p. 79.

(2) An application for an export warehouse licence shall be in form 125 prescribed in the *Eleventh Schedule* to the Customs and Excise Regulations and shall be accompanied by the prescribed fee.

(3) The Commissioner General shall, within thirty days of receipt of the application—

(a) issue an export warehouse licence in the prescribed form, where the Commissioner General is satisfied that the premises meet the prescribed requirements for licensing; or

(b) reject the application and give reasons therefor, where the Commissioner General is satisfied that the premises do not meet the prescribed criteria for licensing.

(4) The Commissioner General shall license every export warehouse as either—

(a) a general export warehouse for the warehousing of export goods generally; or

(b) a private export warehouse for the warehousing of export goods which are the property of the licensee only.

(5) A licence issued under this section shall be subject to such conditions as the Commissioner General may impose.

(6) The Commissioner General may, with reasons in writing—

(a) refuse to issue or renew;

(b) impose such further conditions to;

(c) authorize such exceptions to; or

(d) revoke,

a licence under this section, as he or she considers necessary.

(7) A licence issued under this section shall expire on the 31st day of December of the second year following the date of issue.

57B.—(1) An export warehouse licensee may, upon approval of the Commissioner General, transfer the licence to apply to a different place belonging to the licensee. Transfer of licence

(2) An export warehouse licence shall not be transferred from one person to another.

57C.—(1) Where the Commissioner General revokes or refuses to renew any export warehouse licence, he or she shall notify the licensee of such revocation or refusal and thereupon such notification shall be deemed to be notice to the owners of all goods warehoused therein. Revocation or non-renewal of licence

(2) Where a licensee intends not to renew an export warehouse licence, the licensee shall cause thirty days' notice of such intention to be given to the Commissioner General and to the owners of all goods warehoused therein.

(3) Where the licence in respect of any bonded export warehouse has been revoked or has expired, all goods warehoused therein shall, within such time as the Commissioner General may direct—

(a) be entered and exported in accordance with the provisions of section 4; or

(b) be transferred to another export warehouse.

57D. A holder of an export warehouse licence shall— Licensees to provide facilities, keep records

(a) keep such records of all goods warehoused therein as the Commissioner General may require and make such records at all reasonable times available for examination by any officer;

(b) provide all necessary labour and materials for the storing, examining, weighing and taking stock of the goods warehoused therein whenever the proper officer so requires;

(c) on request of the proper officer, produce any goods deposited in such warehouse; and

(d) be accountable for all goods deposited in the export warehouse, in accordance with customs laws and any other laws regarding export of goods.

Goods for
warehousing

57E.—(1) The Minister may, by regulations, prescribe a schedule of goods to be deposited into an export warehouse.

(2) An exporter who intends to export any goods listed in the schedule in subsection (1), shall first deposit the goods in an export warehouse.

(3) The Commissioner General may, upon application of an exporter, waive the requirement for depositing goods in an export warehouse under subsection (2), on conditions that the Commissioner General may prescribe.

(4) The proper officer may, for verification purposes, at any time take an account of any warehoused goods entered for exportation.

Entry of
warehoused
goods for
exportation

57F.—(1) Except in respect of goods which, in accordance with the customs laws are damaged, lost or abandoned, all goods which have been deposited into an export warehouse shall, prior to removal from the export warehouse, be entered for exportation.

(2) When any warehoused goods are entered for exportation the Commissioner General may require the owner of the goods to submit export compliance documentation, including documentation showing that—

(a) payment in respect of the goods has been made, or is to be made, to a person resident in Malawi in accordance with the Exchange Control Act; and

(b) the amount of the payment that has been made or is to be made is such as to represent a return for the goods that, in all the circumstances, is satisfactory in the interests of Malaŵi.

Cap.45:01

(3) All warehoused goods, which have not been entered for export, from an export warehouse within six months of the date on which they were deposited in that warehouse, shall be returned to open stock by the owner thereof:

Provided that the Commissioner General may permit the goods to remain in the export warehouse after the initial period of six months for a further period, not exceeding six months, as he or she considers desirable.”.

4. The principal Act is amended, in section 77C—

Amendment of s. 77C of the principal Act

(a) under subsection (1), by deleting the words “Schedule C” and substituting therefor the words “the Regulations”; and

(b) by deleting subsection (2) and substituting therefor a new subsection (2) as follows—

“(2) The Minister may, by order published in the *Gazette*, specify—

(a) the excisable goods to which excise tax stamps shall be affixed;

(b) the systems for management of excise tax stamps and excisable goods; and

(c) the manner, place and time of affixing excise tax stamps.”.

5. The principal Act is amended by repealing Schedule C.

Repeal of Schedule C of the principal Act

Passed in Parliament this thirty-first day of March, two thousand and twenty three.

FIONA KALEMBA
Clerk of Parliament

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I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
4th April, 2023

ARRANGEMENT OF SECTIONS

SECTION

- 1. Short title
- 2. Amendment of s. 2 to Cap 41:01
- 3. Amendment of s. 28 of the principal Act
- 4. Replacement of s.37 of the principal Act
- 5. Amendment of s. 76A (1) of the principal Act
- 6. Amendment of s. 88 (1) of the principal Act
- 7. Amendment of s. 102A of the principal Act
- 8. Amendment of s. 102B (1) of the principal Act
- 9. Insertion of s. 102C into the principal Act
- 10. Amendment of s.112 (2) of the principal Act
- 11. Amendment of the Eleventh Schedule of the principal Act
- 12. Amendment of the Fourteenth Schedule of the principal Act
- 13. Amendment of the Fifteenth Schedule of the principal Act

An Act to amend the Taxation Act

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Taxation (Amendment) Act, 2023. Short title

2. The Taxation Act (hereinafter referred to as the “principal Act”) is amended, in section 2, by— Amendment of s.2 to Cap 41:01