

**MALAWI GOVERNMENT**

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**(Published 25th July, 2017)**

**Act**

**No. 23 of 2017**

I assent

PROF. ARTHUR PETER MUTHARIKA  
PRESIDENT  
20th July, 2017

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**An Act to provide for the designation of the Greenbelt area; for the establishment of the Greenbelt Authority and matters connected therewith and incidental thereto**

ENACTED by the Parliament of Malawi as follows—

## PART I—PRELIMINARY

Short title and commencement

**1.** This Act may be cited as the Greenbelt Authority Act, 2017 and shall come into operation on a date the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

**2.** In this Act, unless the context otherwise requires—

“Authority” means the Greenbelt Authority established under section 4 of this Act;

“chairperson” means the chairperson of the Authority appointed under section 5 of this Act;

“committee” means a committee of the Authority established under section 8 of this Act

“Chief Executive Officer” means the Chief Executive Officer appointed under section 19 of this Act;

“Greenbelt area” means an area designated by the Minister for large scale irrigation development whose main purpose is to accelerate socio-economic transformation through increased agricultural productivity, agro-processing and easy access to markets;

“member” means a member of the Authority appointed under section 5(1)(a) of this Act;

“Trust” means the Registered Trustees of the Greenbelt Initiative Trust, duly incorporated under the Trustees Incorporation Act.

3. The Minister shall, in consultation with the relevant authorities, by order published in the Gazette, designate an area as a Greenbelt area. Designation of Greenbelt area

#### PART II—THE GREENBELT AUTHORITY

4. There is hereby established an Authority to be known as the Greenbelt Authority (hereinafter referred to as “the Authority”) which shall be a body corporate with perpetual succession and a common seal and be capable of— Establishment of Greenbelt Authority

(a) acquiring, holding and disposing of real and personal property;

(b) suing and being sued in its own name; and

(c) doing or performing all such acts and things as bodies corporate may, by law, do or perform.

5.—(1) The Authority shall consist of— Composition

(a) a chairperson and five other members appointed by the President, subject to confirmation by the public appointments Committee of Parliament, taking into account representation from the following sectors—

(i) farmers’ organizations;

(ii) legal profession;

(iii) accounting profession;

(iv) irrigation or related engineering; and

(v) private sector;

(b) the following *ex-officio* members—

(i) the Secretary responsible for irrigation, or his designated representative;

(ii) the Secretary to the Treasury, or his designated representative;

(iii) the Secretary responsible for Lands, or his designated representative.

(2) A member of the Authority other than an *ex-officio* member shall not, by reason only of his appointment as a member of the Authority, be deemed to be an employee in the public service.

(3) The Minister shall publish names of all members of the Authority, as first constituted, and every change in the membership, in the *Gazette*.

(4) A person other than an *ex-officio* member shall not be qualified for appointment as a member of the Authority if he—

(a) does not possess—

(i) a minimum educational qualification of a bachelor's degree or its equivalent from a recognized and reputable educational institution; and

(ii) expertise and experience in a field relevant to the functions and responsibilities of the Authority;

(b) holds a political office or is an active member of a political party;

(c) is an officer, member or employee in a public institution;

(d) is adjudged or declared bankrupt; and

(e) would for any other reason be disqualified by law from serving as a director of a company or as trustee.

(5) The Authority may, where necessary, taking into account the nature of the matter to be deliberated, invite any person to attend a meeting of the Authority or any of its committees and participate in the deliberations or to make a presentation or to be asked questions, on any matter, but the person so invited shall not be entitled to vote.

(6) An *ex-officio* member of the Authority shall not be eligible to be appointed chairperson or deputy chairperson of the Authority.

(7) In making the appointments under subsection (1)(a), the President shall comply with the Gender Equality Act.

Cap. 25:06

Functions

6. Within the Greenbelt area, the Authority shall—

(a) oversee, direct and co-ordinate implementation of irrigation policies and programmes;

(b) in consultation with the Water Resources Authority, identify irrigable land, determine potential sources of water and carry out feasibility studies for new irrigation projects or programmes;

(c) investigate, plan, design, construct and supervise implementation of irrigation projects, infrastructure or programmes;

(d) operate and maintain irrigation projects or programmes and to do all acts incidental thereto;

(e) conduct and co-ordinate research and investigation on the optimum use of water for irrigation;

(f) modernize and upgrade aging irrigation schemes to enhance efficiency and improve service to the farmers;

(g) train farmers on different methods of irrigation and use of irrigation equipment;

(h) provide support to farmer organisations including water users' associations and co-operative societies for the proper management of irrigation schemes;

(i) promote public-private partnerships on irrigation programmes;

(j) mobilize technical and financial resources for the implementation of irrigation in Malawi;

(k) review implementation progress and evaluate ongoing irrigation policies, projects or programmes;

(l) promote agro-processing and marketing of crops and produce grown or produced in national irrigation schemes in liaison with organisations responsible for marketing of agricultural produce;

(m) arrange and coordinate activities which may contribute to training activities and cost covering, related to setting up and operating of irrigation programmes, including the payment of any remuneration, honorarium or fees to persons employed in or engaged for purposes of undertaking commercial activities; and

(n) perform any other functions in relation to irrigation as it may consider appropriate for achieving the purposes of this Act.

7. The Authority shall, in the discharge of its functions, have Powers  
power to—

(a) promote its functions and objectives, or any matter under its consideration, through sponsorship, support or organisation of conferences, workshops or meetings;

(b) engage persons of suitable qualifications and experience as consultants to the Authority;

(c) receive donations of funds, materials and technical assistance for the furtherance of its work;

(d) carry out consultations regarding any matter under its consideration and for the general conduct of its work and determine the procedure for carrying out such consultations;

(e) acquire, administer, control maintenance and operation of any land, including the fitting of machinery, equipment, fixtures and stocks included therein or necessary therefore to be used for the administration and management of irrigation programmes for both public and private sector; and

(f) do and perform all such things or acts as are necessary or expedient for the execution of its functions, duties and powers under this Act.

Co-operation with other bodies 8. In the performance of its functions and the exercise of its powers provided for in this Act, the Authority shall co-operate with other public offices, bodies or departments of the Government.

Tenure of office 9.—(1) A member of the Authority, other than an *ex-officio* member, shall hold office for a period of three years and shall be eligible for re-appointment for one further and final term of three years.

(2) When making an appointment after the expiry of three years, the President shall have regard to the need for continuity in the membership of the Authority so that at least half of the appointed members shall be re-appointed for the next term of office.

Vacancies 10.—(1) A vacancy in the office of a member of the Authority other than an *ex-officio* member shall occur, if the member—

(a) dies;

(b) is adjudged or declared bankrupt;

(c) is convicted and sentenced for an offence against any written law to a term of imprisonment without the option of a fine;

(d) fails, without good and justifiable reasons, to attend three consecutive meetings of the Authority of which he had notice;

(e) is certified by a medical practitioner to be incapacitated by reason of physical or mental disability;

(f) resigns in accordance with subsection (2);

(g) is removed by the President in accordance with subsection (3);

(h) if a situation arises that if the person was not appointed, would have disqualified him from being appointed as a member of the Authority.

(2) A member of the Authority other than an *ex-officio* member may, at any time, resign his office by giving one month written notice to the chairperson, who shall then forward the resignation to the President, through the Minister.

(3) The President may remove any member of the Authority other than an *ex-officio* member of the Authority on any of the following grounds—

(a) misconduct or misbehaviour that brings the office of the member into disrepute;

(b) incompetence in the execution of the functions of his office as a member of the Authority;

(c) in circumstances where the member is compromised to the extent that his ability to impartially and effectively exercise the duties of his office is seriously in question.

(4) A vacancy in the membership of the Authority shall be filled by the appointment of a new member by the President in accordance with section 5(1)(a).

(5) A person appointed to fill a vacancy shall serve for the remainder of the term of office but no person may be appointed to fill a vacancy of the remainder of a term of office where the remainder of the term is less than six months.

(6) The period served by a person appointed under subsection (4) shall not be regarded as a term for the purposes of section 7(1).

(7) Subject to section 13(4), a vacancy in the membership of the Authority shall not affect its decisions, the performance of its functions or the exercise of its powers under this Act or any other written law.

11.—(1) For the better carrying into effect of its functions, the Authority may establish any number of committees as may be considered necessary to perform the functions and responsibilities as may be determined by the Authority.

Committees

(2) A committee may consist of either members of the Authority only or members of the Authority and any other suitably qualified persons other than members of staff of the Authority as the Authority may deem fit.

(3) The Authority shall appoint the chairperson and deputy chairperson of each committee only from amongst the members of the Authority.

(4) The provisions of this Act relating to the meetings of members of the Authority shall apply *mutatis mutandis* to the meetings of its committees.

(5) Every committee shall act in accordance with any directions given to it in writing by the Authority.

Allowances  
and expenses

12.—(1) Members of the Authority and of any of its committees shall be paid sitting and other allowances as the Chief Secretary to the Government, in consultation with the Minister responsible for Finance, may determine.

(2) The Authority may make provision for the reimbursement of any reasonable expenses incurred by a member of the Authority or a member of a committee or a person invited under section 5(7) in connection with the business of the Authority or a committee.

Meetings

13.—(1) The Authority shall meet at least once every three months at a place and at a time as the chairperson may determine.

(2) The chairperson shall convene ordinary meetings of the Authority by giving the members of the Authority not less than fourteen days written notice and may, on his own motion, convene an extraordinary meeting of the Authority at a place and time as he may determine in consultation with the Chief Executive Officer.

(3) The chairperson or in the absence of the chairperson, the deputy chairperson shall at the written request of more than three members of the Authority and within seven days of a request, call for an extraordinary meeting of the Authority, at a place and time as the chairperson or deputy chairperson may determine, in consultation with the Chief Executive Officer.

(4) The quorum at every meeting of the Authority or a committee shall be half of the members of the Authority or committee plus one member.

(5) The chairperson or, in his absence, the deputy chairperson, shall preside at all meetings of the Authority:

Provided that in the absence of both the chairperson and deputy chairperson at a particular meeting of the Authority, the members of the Authority present and forming a quorum shall elect one of their number to preside over the meeting of the Authority.

(6) At any meeting of the Authority, the decision of the Authority on any matter shall be that of the majority of the members of the Authority present and voting, and at all the meetings, the person presiding shall have, in the event of an equality of votes, a casting vote in addition to a deliberative vote.

(7) Minutes of each meeting of the Authority or a committee shall be kept by the Chief Executive Officer and shall be confirmed at the subsequent meeting of the Authority or committee, as the case may be.



duties of his office and shall ensure that the Authority is provided with all the information, data, statistics, documents and other materials pertinent to the efficient performance by the Authority of its functions and responsibilities under this Act or any other written law.

**21.—(1)** The Authority may remove the Chief Executive Officer from office on the following grounds—

Removal of  
the Chief  
Executive  
Officer

(a) misconduct that brings his office into disrepute;

(b) incompetence in the execution of his functions;

(c) incapacity by reason of physical or mental illness as certified by a medical practitioner or a medical board;

(d) if he is declared or adjudged bankrupt by a competent court; or

(e) if he is sentenced for an offence against any written law to any term of imprisonment without the option of a fine.

(2) The Authority shall notify the Minister in writing of its decision to remove the Chief Executive Officer from office under subsection (1) and the reason or reasons therefor.

**22.—(1)** The Chief Executive Officer shall be the secretary to the Authority.

Secretary to  
the Authority

(2) The Chief Executive Officer shall have custody of the common seal of the Authority.

(3) The Chief Executive Officer may, with the approval of the chairperson, delegate senior members of staff of the Authority to act as secretaries to the committees of the Authority.

**23.—(1)** The Authority shall employ other management, professional, research, technical, administrative and other support staff subordinate to the Chief Executive Officer, as the Authority shall consider necessary for the exercise of its powers and performance of its duties and functions, who shall be officers in the public service.

Other staff of  
the Authority

(2) The staff of the Authority referred to in subsection (1) shall be appointed by the Authority on terms and conditions as the Authority shall determine in consultation with the Government department responsible for human resource management and development:

Provided that the Authority may, by directions in writing, delegate to the Chief Executive Officer, the appointment of other staff in specified junior ranks and the Chief Executive Officer shall report to the Authority every appointment made pursuant to this subsection.

(3) Every member of staff of the Authority shall, on first appointment, take an oath of secrecy in the form set out in the Schedule hereto.

(4) The Chief Executive Officer or other officer of the Authority as the Authority or the Chief Executive Officer may designate, may attend meetings of the Authority and of any of its committees and may address the meetings, but shall not vote on any matter.

(5) Where, in any meeting, the deliberations of the Authority or any of its committee concerns the Chief Executive Officer or any officer of the Authority designated to attend the meeting, the Authority or the committee, as the case may be, may exclude the Chief Executive Officer or the officer from the meeting.

(6) Section 15 shall apply mutatis mutandis, to the Chief Executive Officer and any other officer referred to in this section.

#### PART IV—FINANCIAL PROVISIONS

Funds of the  
Authority

24.—(1) The funds of the Authority shall consist of—

(a) sums appropriated by Parliament for purposes of the Authority;

(b) sums or assets that may accrue to or vest in the Authority, whether in the course of the performance by the Authority of its functions or the exercise of its powers or otherwise;

(c) sums or assets that may accrue to or vested in the Authority by way of grants, subsidies, bequests, donations, gifts and subscriptions, from the Government or any other person;

(d) sums that are derived from the sale of any real or personal property, by or on behalf of the Government;

(e) sums that are received by the Authority by way of voluntary contributions; and

(f) sums or assets as may be donated to the Authority by any foreign government, international agency or other external body of persons.

(2) The Authority may receive the sums or assets referred to in subsection (1) from a source other than the Government provided that no sums or assets shall jeopardise or compromise the independence of the Authority.

(3) The Authority shall, within a reasonable period not exceeding one month, provide the Secretary to the Treasury in writing details of the sums or assets received by the Authority under subsection (1) from a source other than the Government.

duties of his office and shall ensure that the Authority is provided with all the information, data, statistics, documents and other materials pertinent to the efficient performance by the Authority of its functions and responsibilities under this Act or any other written law.

21.—(1) The Authority may remove the Chief Executive Officer from office on the following grounds—

Removal of the Chief Executive Officer

- (a) misconduct that brings his office into disrepute;
- (b) incompetence in the execution of his functions;
- (c) incapacity by reason of physical or mental illness as certified by a medical practitioner or a medical board;
- (d) if he is declared or adjudged bankrupt by a competent court; or
- (e) if he is sentenced for an offence against any written law to any term of imprisonment without the option of a fine.

(2) The Authority shall notify the Minister in writing of its decision to remove the Chief Executive Officer from office under subsection (1) and the reason or reasons therefor.

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Other staff of the Authority

(2) The staff of the Authority referred to in subsection (1) shall be appointed by the Authority on terms and conditions as the Authority shall determine in consultation with the Government department responsible for human resource management and development:

Provided that the Authority may, by directions in writing, delegate to the Chief Executive Officer, the appointment of other staff in specified junior ranks and the Chief Executive Officer shall report to the Authority every appointment made pursuant to this subsection.

(3) Every member of staff of the Authority shall, on first appointment, take an oath of secrecy in the form set out in the Schedule hereto.

(4) The Chief Executive Officer or other officer of the Authority as the Authority or the Chief Executive Officer may designate, may attend meetings of the Authority and of any of its committees and may address the meetings, but shall not vote on any matter.

(5) Where, in any meeting, the deliberations of the Authority or any of its committee concerns the Chief Executive Officer or any officer of the Authority designated to attend the meeting, the Authority or the committee, as the case may be, may exclude the Chief Executive Officer or the officer from the meeting.

(6) Section 15 shall apply *mutatis mutandis*, to the Chief Executive Officer and any other officer referred to in this section.

#### PART IV—FINANCIAL PROVISIONS

Funds of the  
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24.—(1) The funds of the Authority shall consist of—

(a) sums appropriated by Parliament for purposes of the Authority;

(b) sums or assets that may accrue to or vest in the Authority, whether in the course of the performance by the Authority of its functions or the exercise of its powers or otherwise;

(c) sums or assets that may accrue to or vested in the Authority by way of grants, subsidies, bequests, donations, gifts and subscriptions, from the Government or any other person;

(d) sums that are derived from the sale of any real or personal property, by or on behalf of the Government;

(e) sums that are received by the Authority by way of voluntary contributions; and

(f) sums or assets as may be donated to the Authority by any foreign government, international agency or other external body of persons.

(2) The Authority may receive the sums or assets referred to in subsection (1) from a source other than the Government provided that no sums or assets shall jeopardise or compromise the independence of the Authority.

(3) The Authority shall, within a reasonable period not exceeding one month, provide the Secretary to the Treasury in writing details of the sums or assets received by the Authority under subsection (1) from a source other than the Government.

(4) For the purposes of this section, “an external body of persons”, means a body of persons, incorporated or unincorporated, formed under or by virtue of the laws of any country other than Malawi.

25.—(1) The Authority shall cause to be kept proper accounts and other records relating thereto in respect of its funds and shall, in every respect, comply with the provisions of the Public Finance Management Act and the Public Audit Act.

Accounts and  
audit  
Cap 37:02  
Cap 37:01

(2) The Authority shall cause to be prepared within four months of the end of each financial year, its annual audited accounts.

(3) The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed by the Authority with the written approval of the Auditor General in accordance with the Public Audit Act.

Cap 37:01

(4) When the accounts have been audited, the Authority shall submit the reports made by the auditors on the accounts to the Minister.

(5) The Minister shall lay the financial report of the Authority before Parliament.

#### PART V—MISCELLANEOUS

26. A person who—

Offences

(a) makes any statement knowing it to be false, or provides any information or documentation that is materially incorrect with the intention of misleading the Authority;

(b) without a written permission of the Authority, publishes or discloses to any unauthorized person or otherwise than in the course of duty, the contents of any document, communication or information of any kind which has come to his knowledge in the course of his duty under this Act; and

(c) interferes with the operation of the Authority in pursuance of the objects of this Act,

commits an offence and shall, upon conviction, be liable to a fine of K5,000,000 and to imprisonment for five years.

27.—(1) The Authority shall—

Reporting

(a) from time to time and in consultation with the Minister, submit reports to the President the work of the Authority and in particular on matters that could affect the irrigation programmes within the Greenbelt area and on the priorities to be set by the Authority; and

(b) prepare and submit to the President and the Minister, within three months after the end of every financial year, a comprehensive annual report on the general conduct of the affairs of the Authority and the activities it has carried out during that financial year.

(2) The Minister shall, at the next sitting of the National Assembly following the publication of the report referred to in subsection (1) (b), lay a copy of the annual report in the National Assembly.

Powers of the  
Minister

28. The Minister may, by notice published in the *Gazette*,—

(a) on the advice of the Authority, make regulations for the better carrying out of the provisions of this Act; and

(b) amend any Schedule to this Act.

#### PART VI—TRANSITION

Undertakings  
and legal  
proceedings,  
etc.

29.—(1) Any document or permission, made, granted or approved by the Registered Trustees of the Greenbelt Initiative Trust under any applicable law shall, in so far as it is consistent with the provisions of this Act and except as otherwise expressly provided in this Act or in any other written law, continue and be deemed to have been made, granted or approved by the Authority or the Minister as the case may be, under the corresponding provisions of this Act.

(2) Any property and undertakings owned by the Registered Trustees of the Greenbelt Initiative Trust and used by the Trust, immediately before the commencement of this Act, shall be transferred to and vested in the Authority by the same title by which they were held immediately before the said date.

(3) Where, immediately before commencement of this Act, any legal proceedings are pending to which the Registered Trustees of the Greenbelt Initiative Trust were a party, the Authority shall, as from the date of commencement of this Act, continue in such proceedings, or shall be made a party thereto in like manner as the Authority could have become, and the proceedings shall not abate by reason of the substitution.

Transfer of  
assets, funds,  
liabilities, etc.

30. Property, assets, funds, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the Registered Trustees of the Greenbelt Initiative Trust, shall, on the commencement of this Act, be deemed to have vested in, or to have been acquired, incurred or entered into by or on behalf of the Authority and shall become enforceable by, or against, the Authority to the same extent as they were enforceable by or against the Registered Trustees of the Greenbelt Initiative Trust.

31.—(1) All appointments of staff of the Registered Trustees of the Greenbelt Initiative Trust made prior to the commencement of this Act and subsisting at the date of commencement of this Act shall be deemed to have been made in accordance with this Act. Transfer of employees

(2) Any person who, immediately prior to the commencement of this Act is employed by the Registered Trustees of the Greenbelt Initiative Trust shall, in accordance with the dissolution resolution of the Trust, be transferred to the employment of the Authority—

(a) on terms and conditions of service, not less favourable than those of employment by the dissolved Trust; and

(b) service shall be regarded as continuous from the time he was appointed by the Registered Trustees of the Greenbelt Initiative Trust.

SCHEDULE

(s. 16)

OATH OF SECRECY

I, ....., being a member/staff of the Greenbelt Authority, do hereby swear/affirm that I will freely without fear or favour affection or ill will, discharge the functions of a member/staff, of the Authority, and that I will not directly, or indirectly reveal any matters related to such functions to any unauthorized person or otherwise than in the course of my duty.

SWORN at ..... this ..... day of ..... 20 .....

Signature: .....

Before me:

.....

Commissioner for Oaths

Passed in Parliament this seventh day of June, two thousand and seven-teen.

FIONA KALEMBA  
Clerk of Parliament