

MALAWI GOVERNMENT

(Published 15 February 2019)

Act

No. 1 of 2019

I assent

PROF. ARTHUR PETER MUTHARIKA

PRESIDENT

25th January, 2019

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of s. 6 of Cap. 7:04
3. Insertion of s. 6A of the principal Act
4. Insertion of s. 6B of the principal Act

An Act to amend the Corrupt Practices Act

ENACTED by the Parliament of Malawi as follows—

1. This Act may be cited as the Corrupt Practices (Amendment) Act, 2019. Short title

2. The Corrupt Practices Act (hereinafter referred to as “the principal Act”) is amended by repealing section 6 and substituting therefor a new section 6 as follows— Amendment of section 6 of Cap. 7:04

“Director of the Bureau 6.—(1) There shall be a Director of the Bureau who shall be appointed by the President, upon terms and conditions as the President may determine.

(2) The Director shall be a public officer and the appointment to the office shall be subject to confirmation by the Public Appointments Committee of the National Assembly.

(3) The Director shall be the chief executive officer of the Bureau and shall perform any functions and duties, and exercise powers, as are conferred upon him by this Act or any other written law.

(4) A person shall not be appointed or remain Director who, upon appointment, is or remains—

- (a) a Member of Parliament;
- (b) a Minister or Deputy Minister;
- (c) a serving member of the Judiciary;
- (d) a holder of office in a political party or its affiliate;
- (e) a minor or a person under legal disability;
- (f) a person who has been responsible for a loss suffered by a licensed financial institution in Malawi or elsewhere;
- (g) a person who has been removed by a court of competent jurisdiction or otherwise, whether in Malawi or elsewhere, from office on account of abuse or misuse of office or misconduct in the exercise of his duties in that office;
- (h) in terms of any law in force in any country, adjudged or otherwise declared bankrupt or insolvent and has not been rehabilitated or discharged, made an assignment to, or arrangement or composition with, his or her creditors, which has not been rescinded or set aside;
- (i) convicted of an offence, the punishment of which has no option of a fine;
- (j) in a position where there is a conflict of interest between the office of the Director and his business interest; or
- (k) not a citizen of Malawi.

(5) The Director shall be a person of high integrity with recognized, relevant academic and professional qualifications, and post qualification experience of not less than ten years in matters of finance, law or law enforcement.

(6) The Director may delegate to any person, subject to any terms and conditions that the Director may specify, any power, duty or function conferred on the Director under this Act.”

Insertion of
s. 6A into the
principal Act

3. The principal Act is amended, by inserting immediately after section 6, the following new section—

“Recruitment
process for
Director

6A.—(1) In the event of a vacancy in the office of the Director, the Minister shall advertise the position in the *Gazette* and at least two newspapers of widest circulation in Malawi.

(2) Upon receipt of the applications, the Minister shall empanel a selection team of not more than seven people comprising representatives of the public sector, the private sector, faith organizations, traditional leadership, civil society organizations and the media.

(3) The selection panel shall carry out the shortlisting and interviews in order to select a minimum of two and a maximum of three candidates for the position.

(4) The Minister shall send the list to the President for the appointment of one of the candidates as Director.

(5) The shortlisted candidates for the position of Director shall undergo necessary security clearance and vetting procedures.

(6) The President shall, subject to section 6(2), appoint a Director only from the names on the list recommended by the Minister:

Provided that if the President rejects all the names on the said list, he shall send the list back to the Minister with reasons for the rejection and the Minister shall advertise the position again and cause fresh interviews to be carried out in accordance with this Act.”

4. The principal Act is amended, by inserting immediately after section 6A, the following new section—

Insertion of
s. 6B into the
principal Act

“Tenure of
Director

6B.—(1) The Director shall be appointed for a term of three years, renewable once.

(2) The Director may be removed from office by the President, with the confirmation of the Public Appointments Committee, for inability to perform the functions of his office or for misconduct.

(3) Where the President has information justifying the removal of the Director from office on any of the grounds listed in subsection (2), the President shall appoint a committee to inquire into the information and furnish its findings to the President.

(4) The committee appointed under subsection (3) shall consist of—

(a) a legal practitioner with experience in the practice of the profession of the law of at least ten years, who shall be the chairperson of the committee; and

(b) two other persons of good character, high integrity and with experience of at least ten years in the field of law enforcement, human resources or finance.

(5) Where the committee, on the basis of its findings, advises the President that the Director concerned ought to be removed from office, the President shall terminate the appointment of the Director.

(6) At the time of appointing the committee, the President may send the Director on leave or suspend him from office as Director.

(7) In the event of incapacity of the Director, or if the office of Director is vacant, the Deputy Director shall act in his place and have all of the powers, duties and functions of the Director:

Provided that the Deputy Director, shall not act as Director for a period exceeding six months.

(8) In the event of incapacity of the Director and Deputy Director or if the offices of the Director and Deputy Director are vacant, the President shall appoint a suitably qualified person to act as Director for a period not exceeding six months or until the vacancy is filled.”.

Passed in Parliament this tenth day of December, two thousand and eighteen.

FIONA KALEMBA
Clerk of Parliament