

GOVERNMENT NOTICE NO. 20

DISABILITY ACT

(CAP. 33:06)

DISABILITY TRUST FUND REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 33 of the Disability Act, I, CLEMENT TERRENCE CHIWAYA, Minister of Persons with Disability and the Elderly, make the following Regulations—

ARRANGEMENT OF REGULATIONS

REGULATION

PART I—RELIMINARY

1. Citation
2. Interpretation

PART II—ESTABLISHMENT, OBJECTIVES AND REVENUE OF FUNDS

3. Establishment of Fund
4. Objective of Fund
5. Revenue of Fund

PART III—ADMINISTRATION OF THE FUND.

6. Administrative structure of Fund
7. Duties of Trust and Fund Manager
8. Executive application of Fund
9. Application for funds

PART IV—MISCELLANEOUS

10. General penalties
11. Power to supplement procedures

PART I—RELIMINARY

1. These Regulations may be cited as the Disability (Disability Trust Fund) Regulations, 2020. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

“Director” means the Director responsible for disability affairs;

“Funds” means the Disability Trust Fund established under regulation 3.

PART II—ESTABLISHMENT, OBJECTIVES AND REVENUE OF THE FUND

3. There is hereby established the Disability Trust Fund for the purposes set in regulation 4. Establish-ment of Funds

Objectives
of fund

4. Without derogation to the generality of section 29 of the Act, the objectives of the Fund shall be to—

(a) provide financial and other resources for undertaking disability affairs interventions of in Malawi, including—

- (i) provision of training on disability matters;
- (ii) acquisition of assets for purposes of investment of excess revenue of the Fund;
- (iii) provision of education assistance;
- (iv) acquisition of assistive devices and technologies;
- (v) provision of individual needs through support programme;

(b) stimulate co-operation and participation in the pursuit of the above objectives in disability affairs interventions; and

(c) finance research programmes on matters of disability.

Revenue of
Fund

5. The Fund shall consist of—

(a) money appropriated by the National Assembly for the purposes of the Fund;

(b) advances made by the Minister responsible for finance in order to meet a deficiency in the fund;

(c) any moneys, assets, gift and donations received for the purposes of or vested in or accrued to the Fund under the Act or otherwise;

(d) levies, fees or penalties relating to disability matters under any written law; and

(e) any interest on investment.

PART III—ADMINISTRATION OF THE FUNDS

Administra-
tive
structure of
fund

6.— (1) The Minister shall constitute a Board of Trustees, from among citizens of Malawi with the competences, skill and expertise to administer a public fund, who shall be the overseers and custodians of the Fund.

(2) In making the appointments, the Minister shall—

(a) appoint not more than five persons as Trustees;

(b) designate one appointee as chairperson of the Board;

(c) ensure that not less than forty percent of the appointees are women;

(d) ensure that the appointees are of good standing and have demonstrable integrity in society; and

(e) ensure that the appointees are not conflicted with the objectives and operations of the Fund.

(3) The Trustees shall be appointed for a period of three years and are eligible for re-appointment for a further term or terms of three years.

(4) The Trustees may be removed from office on grounds of incompetence and incapacity.

(5) A Trustee may resign from office by giving a written notice of one month to the Minister.

(6) The Fund shall be administered, in accordance with the purposes of the Fund, by a Fund Manager who shall report to the Board of Trustees.

(7) The Fund Manager shall be the Director responsible for disability affairs and in this capacity, he shall report to the Board of Trustees.

7.—(1) The Board of Trustees shall be responsible for—

(a) the considering application for funds and approving disbursements of the funds;

(b) exercising oversight on the implementation of the Fund; and

(c) implementation of these Regulations.

(2) The Fund Manager shall be responsible for—

(a) ensuring that the administration of the Fund is in compliance with the Act and these Regulations;

(b) receiving applications for financial or other resources from the Fund by applicants and verifying the necessary documentation presented with the application;

(c) presenting his findings and recommendations on applications to the Board of Trustees;

(d) communicating the resolutions of the Board of Trustees on each application to the applicants;

(e) keeping the records on the administration of the Fund;

(f) reporting to the Secretary responsible for disability affairs quarterly on the administration of the Fund.

(3) The Fund Manager shall, subject to any directions of the Secretary to the Treasury, maintain all necessary books and accounts to enable him to produce annually a receipts and payments account and such other accounts as may be required by the Secretary to the Treasury.

(4) For the better carrying into effect of his functions, in the administration of the Fund, the Fund Manager may—

(a) designate or appoint officers for the implementation of the activities of the Fund;

(b) establish such number of committees or panels as may be considered necessary to perform the functions and responsibilities as may be determined by the Director.

Duties of
Trustees and
Fund
Manager

Cap. 7:07

(5) The Fund shall be subject to the Public Procurement and Disposal of Assets Act, the Public Audit Act and the Public Finance Management Act and shall be audited annually by the Auditor General.

Exclusive
application
of Fund

8.—(1) The revenue of the Fund shall be applied for the objectives specified under regulation 4 and for no other purpose.

(2) The Trustees shall, from time to time, issue guidelines on the general administration of the Fund in compliance with these Regulations and shall prescribe the proportions of utilization of the resources based on the nature of beneficiaries of the Fund.

Application
for funds

9.—(1) A person who intends to implement or satisfy the objectives of the Fund as provided for under these Regulations may apply to the Trustees of the Fund for provision of resources in accordance with these Regulations.

(2) An application for resources from the Fund shall be made to the Trustees through the Fund Manager in a prescribed manner and may only be made by—

(a) organizations implementing disability programmes and services; and

(b) Ministries, departments and agencies of Government implementing disability programmes and services.

(3) The Fund Manager shall assess the completeness of an application and may request the applicant to provide further and better particulars together with the application.

(4) The Trustees shall assess and decide an application made within ninety days and shall communicate their decision through the Fund Manager.

(5) Where a decision is made on an application for funds, the Trustees shall furnish reasons and conditions on which the decision is made to the applicant, whichever the case may be.

PART IV — MISCELLANEOUS

General
penalties

10. A person who contravenes any provision of these Regulations commits an offence and is liable, on conviction, to imprisonment for a term of three months.

Power to
supplement
procedures

11. Where procedures are not expressly provided for in these Regulations, the Director may do whatever is necessary, reasonable and permitted by applicable law to enable it to effectively and completely deal with the matter before it.

Dated this 9th day of April, 2020.

FILE NO. PWDE/DP/42

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Minister of Persons with Disability and the Elderly