

GOVERNMENT NOTICE NO. 32

CONTROL OF GOODS ACT

(ACT No. 15 of 2018)

CONTROL OF GOODS (PUBLIC INTEREST GROUNDS THRESHOLDS)
REGULATIONS, 2020

IN EXERCISE of the powers conferred by Section 15 of the Control of Goods Act, I, SALIM BAGUS, Minister of Industry, Trade and Tourism, make the following Regulations—

1. These Regulations shall be cited as the Control of Goods (Public Interest Grounds Thresholds) Regulations, 2020. Citation

2.—(1) The Minister shall consult relevant authorities including ministries, departments, agencies or interested parties to give an opportunity to these parties to present evidence on the relevant thresholds to be considered in making orders regulating imports or exports on public interest grounds. Application of the Thresholds

(2) The Minister shall prescribe the agreed thresholds by an order published in the *Gazette*

(3) The measures issued under this Regulation shall not be applied in a manner which would constitute a disguised restriction on international trade.

3.—(1) The Minister shall not make an order on the ground of prevention of, or relief to critical shortage of food stuffs, food and other products unless the national food balance sheet is less than the national food requirement for four months and domestic food prices are below export parity prices. Prevention of or relief to critical shortages of foodstuff, food or other products essential to the country

(2) The Minister shall base his decision on the information about food balance sheet in the country provided by the ministry responsible for food security.

4.—(1) The Minister shall not make an order on the ground of protection of domestic industry from serious injury imposed by import surges unless— Protection of domestic industry from serious injury imposed by import surges

(a) the Minister through a process of objective investigation determines that the injury was caused by the import surge;

(b) there is sufficient evidence before the Minister that the import surge is not temporary;

(c) the measure imposed by the order does not address the injury caused by inefficiencies of the domestic industry;

(d) the measure imposed by the order does not enable the domestic industry to uncompetitive or unfair advantage;

(e) the Minister has taken into account all relevant economic factors and has established a causal relationship between increase in imports and the injury; and

(f) the quantity of the imports is above the average of imports in the last three representative years.

(2) The Minister shall not impose a measure on the ground of protection of domestic industry from injury caused by import surges for a period of more than six months in the case of agricultural products and twelve months for all other products.

(3) For purposes of this regulation, "serious injury" means a significant overall impairment in the position of a domestic industry.

Ensuring the supply of essential raw materials

5.—(1) The Minister shall not make an order on the ground of ensuring supply of essential raw materials unless—

(a) the production estimates of a particular raw material are less than fifty percent of the requirement of the domestic industry; and

(b) the price for the raw material offered by the domestic industry is not less than export parity price for the goods;

(2) The order made pursuant to sub regulation (1), shall not be for a duration of more than—

(a) six months in the case of agricultural products; and

(b) twelve months for all other products.

(3) For the purposes of this regulation "essential raw material" means a raw material the supply of which constitutes at least fifty percent of the required raw materials for production of goods in the industry that the order seeks to regulate.

Protection of consumers

Cap. 48:01

6.—(1) The Minister shall not make an order regulating the import or export of goods on the ground of protection of consumers unless there is sufficient evidence before the Minister that importation or exportation of the goods contravenes the Consumer Protection Act or any other relevant law.

(2) The Minister may, where determined necessary and in consultation with relevant authorities, prescribe a remedial measure to mitigate the effects of implementation of the order in sub regulation (1) while the order is in effect.

(3) The order made pursuant to sub regulation (1) shall be valid for six months and shall be subject to review.

Combating the spread of contagious human, animal or plant diseases

7.—(1) The Minister shall not make an order regulating the import of goods on the ground of combating the spread of contagious human, animal or plant diseases unless there is a declaration of prevalence of a contagious human, animal or plant disease—

(a) by the ministry responsible for health or agriculture in Malawi;

or

(b) by relevant authorities in the country of origin of the goods.

(2) The Minister shall specify the areas and or goods affected by the order in sub regulation (1).

(3) The order made under sub regulation (1), shall be in force for not more than a month after the declaration of the prevalence of the contagious human, animal or plant disease in question:

Provided that the order may be extended if the circumstances which led to the institution of the order remain unchanged as certified by the relevant authority.

8.—(1) The Minister shall not make an order regulating the import of goods on the ground of protecting public health or safety unless—

Protecting
public health
or safety
Cap. 34:01

(a) importation or exportation of the goods may be in contravention of the Public Health Act;

(b) there is, in Malawi or country of origin or transit, an outbreak of diseases the spread of which, may be aggravated by movement of the goods in question; and

(c) the goods in question pose a danger to public health or safety.

(2) The Minister shall specify the areas and goods affected by the order.

(3) The order made under sub regulation (1), shall be in force for not more than a month after the declaration of the prevalence of the contagious human, animal or plant disease in question:

Provided that the order may be extended if the circumstances which led to the institution of the order remain unchanged as certified by the relevant authority.

9. The Minister shall not make an order on the ground of protecting the environment unless—

Protection
of the
environment
Cap. 60:02

(a) there is proof that the goods concerned pose a danger to the environment;

(b) the measure is proposed or approved by the minister responsible for environment in accordance the Environment Management Act, and relevant stakeholders .

10. The Minister may make an order regulating the import and export of goods on the ground of combating illicit trade in narcotics, arms and ammunition, endangered species or any prohibited goods if importation, exportation or transit of the goods concerned would be in contravention of any written law or international agreement to which Malawi is a party.

Combating
the illicit
trade in
narcotics,
arms and
ammunition,
endangered
species or
any other
prohibited
goods

11. The Minister shall not make an order on the ground of maintaining balance of payments unless—

Maintaining
balance of
payments

(a) there is proof that there is need for intervention in order to maintain the balance of payments; and

(b) the measure is proposed or approved by the minister responsible for finance in consultation with relevant stakeholders.

(2) The measure shall be in force for a period of not more than six months in the case of agricultural products, and twelve months for all other products.

Support
of infant
industries

12.—(1) The Minister shall not make an order on the ground of supporting infant industries unless—

(a) an interested party can prove to the Minister that an infant industry is not sustainable in the absence of the order;

(b) there is proof that the threat to the infant industry is not temporary;

(c) the measure imposed by the order does not address the lack of progress caused by inefficiencies of the infant industry;

(d) the measure imposed by the order does allow the concerned infant industry to undertake unfair market practices; and

(e) the Minister has taken into account all relevant economic factors and has established a causal link between the circumstances leading to the issuance of the order and the operations of the infant industry.

(2) The order made pursuant to this regulation shall remain in force for a period of not more than six months in the case of agricultural products; and twelve months for all other products.

(3) For purposes of this regulation, an “infant industry” means an industry that has been in operation in the country for a period of not more than ten years.

Security of
export
proceeds

13.—(1) The Minister shall not make an order on the export of goods on the ground of security of export proceeds unless the Minister has evidence of externalization of export proceeds.

(2) The order under sub regulation (1) shall not be made unless approved by the Minister responsible for finance and in consultation with the Reserve Bank of Malawi.

Submission
of evidence

14.—(1) Any interested party may, pursuant to section 5 of the Act, apply to the Minister for institution of an order in a manner and form prescribed in the First Schedule hereto.

(2) Any interested party may, pursuant to section 5 of the Act, submit to the Minister for variation, continuation or revocation of an order in a manner and form prescribed in the Second Schedule hereto.

(3) The Minister, shall where an application is made under sub regulation (1) or (2), respond in writing, within seven days as prescribed in the Third Schedule hereto.

Imposition,
variation or
revocation of a
measure

15. The Minister may pursuant to section 6 of the Act implement, vary or revoke a measure issued under these regulations at any time or pursuant to an application made under regulation 14.

GOVERNMENT NOTICE NO. 33

CONTROL OF GOODS ACT

(ACT NO. 15 OF 2018)

CONTROL OF GOODS (IMPORT AND EXPORT LICENCE) REGULATIONS,
2020

IN EXERCISE of the powers conferred by section 4 of the Control of Goods Act, I, SALIM BAGUS, Minister of Industry, Trade and Tourism make the following Regulations—

- Citation 1. These Regulations shall be cited as the Control of Goods (Import and Export Licence) Regulations, 2020.
- Application 2. These Regulations shall apply to application, issuance and revocation of export and import licences.
- Designation of goods that require export or import licenses 3.—(1) The Minister may, after consultations in accordance with section 6 of the Act, designate goods whose import into or export out of Malawi will require a licence.
- (2) No goods designated by the Minister under sub regulation (1) shall be imported into, or exported out of Malawi without a valid licence.
- (3) The goods in the First Schedule hereto, may only be imported into Malawi under an import licence.
- (4) The goods listed in the Second Schedule hereto, may only be exported into Malawi under an export licence.
- Application for import or export licence 4.—(1) A person who intends to import or export goods designated by the Minister under regulation 3 shall apply for an import or export licence in the form prescribed in the Third Schedule hereto.
- (2) An applicant for an import licence shall be required to pay—
- (a) a non-refundable application fee of K5000; and
- (b) a licence fee of K20,000.
- (3) The Minister shall make a determination on an application submitted pursuant to sub regulation (1), within fourteen days from the day of submission.
- (4) For purposes of this regulation, the day of application shall be the day the responsible officer receives the application form including the application fee.
- (5) Where the Minister declines to grant a licence, he shall give reasons for the decision in writing.
- Issuing of a licence 5.—(1) The Minister shall issue an import or export licence in the form prescribed in the Fourth Schedule hereto.
- (2) The Minister may impose conditions to a licence issued under these regulations.

(3) A licence issued pursuant to these Regulations, shall be valid for one year and in any case, a period of not more than twelve months.

6.—(1) The Minister may vary, impose further conditions, or revoke a licence issued pursuant to these regulations where the licence holder contravenes the conditions of the licence: Variation or revocation of a Licence

Provided that the Minister shall accord the licence holder an opportunity to be heard before varying, imposing new conditions or revoking the licence.

(2) A licensee shall respond to the notice given under sub regulation (1) within fourteen days from the date of receipt.

7. Any person aggrieved by the decision of the Minister made pursuant to these regulations may apply for review of the decision in accordance with section 13 of the Act. Appeals

FIRST SCHEDULE

(Reg. 2(3))

GOODS WHICH REQUIRE AN IMPORT LICENCE

1. Wild animals, wild animal trophies and wild animal products
2. Meat
 - (a) bovine and;
 - (b) swine
3. Live Poultry, day old chicks, undressed and dressed poultry
4. Fish whether frozen, dried or live and eggs and spawn thereof
5. Table eggs
6. Fresh milk
7. Fruit and vegetables (fresh & preserved), including lettuce, cabbage, cauliflower, rape, turnips, fresh beans, fresh peas, green pepper, fresh chillies, garlic, onions, carrots, beetroots, radishes, tomatoes, egg plants, irish or sweet potatoes, bananas, mangoes, pineapples
8. Grain of any variety including rice, barley, beans and groundnuts in all forms including meals, flours and residues
- 9./ Maize including—
 - (a) dried maize, on or off the cob;
 - (b) crushed maize;
 - (c) samp;
 - (d) maize grits;
 - (e) maize cones;
 - (f) hominy chop;
 - (g) maize offals; or
 - (h) processed maize meal with or without additives
10. Refined and crude cooking oil

11. Cane Sugar
12. Bottled Water
13. Canned glass & plastic bottled non-alcoholic drinks exceeding three cases
14. Liquor in sachets
15. Canned and bottled alcoholic drinks exceeding three cases
16. Coarse and table salt
17. Cément
18. Soap including-
 - (a) laundry bar soap; and
 - (b) powdered detergent (loosely packaged detergent powdered soap weighing more than 15kg)
19. Matches
20. Plastic products – below 60 microns
21. Secondhand clothes exceeding one bale. Underwear (pants, bras) –strictly not to be imported
22. Second hand items including—
 - (a) kitchen utensils; and
 - (b) refrigerators
23. Ball point pens
24. Fertiliser

SECOND SCHEDULE

(reg. 3(4))

GOODS FOR WHICH AN EXPORT LICENCE IS REQUIRED

1. Implements of war (other than arm and ammunition), atomic energy materials of strategic value, and items of primary strategic significance used in the production of arms and ammunition and other implements of war, including the following—
 - (a) beryllium;
 - (b) cobalt
 - (c) tantalum;
 - (d) uranium;
 - (e) lithium;
 - (f) columbite;
 - (g) thorium;
 - (h) germanium;
 - (i) titanium;
 - (j) nickel; and
 - (k) any materials containing such materials containing such metals.

2. Petroleum products
3. The following gemstones in the unmanufactured state—
 - (a) Corundum;
 - (b) Garnet;
 - (c) Quartz;
 - (d) Tourmaline;
 - (e) Turquoise;
 - (f) Beryl
 - (g) Zircon;
 - (h) Jade;
 - (i) Olivine;
 - (j) Feldspar;
 - (k) Topaz;
 - (l) Opal;
 - (m) Chrysobery;
 - (n) Spine; and
 - (o) Lazurite.
4. Scrap metal
5. Hides and skins in processed and non- processed form
6. Rice including—
 - (a) rice meal;
 - (b) rice bran; and
 - (c) rice residues
7. Maize including—
 - (a) dried maize on and off the cob;
 - (b) crushed maize
 - (c) samp
 - (d) maize grits
 - (e) maize cones
 - (f) hominy chop
 - (g) maize offals; or
 - (h) processed maize meal with or without additives
8. Raw round hardwood timbers
9. Sorghum
10. Soya beans
11. Cotton lint and seed
12. Oil seeds and residues from oil seeds

THIRD SCHEDULE

(reg. 4)

APPLICATION FOR IMPORT/EXPORT LICENCE

Form to be completed in block letters and submitted in duplicate—

1. Full name of applicant.....
2. Name of Business (if different from 1)
3. Nationality of applicant.....
4. Postal address of applicant.....
 Tel/Cell No.....
 Email
5. Description and location of premises used or proposed to be used for storing the goods
 - (a) Description.....

 - (b) Location: Village, road or street name
 - Chief (if applicable).....
 Town or District
 - (c) Please state if plot is freehold, leasehold or customary land give plot No. if applicable).....
6. If application is for renewal, provide the following current or former licence numbers:

7. Financial probity:
 Please state the value of goods
- Source of funds
-
 Name and address of your bank.....

8. Date goods expected to leave or to be in Malawi:..... day of 20...
9. In case of imports, state the intended use of the goods
-

10. State if accredited or approved agent of Manufacturer, giving name of manufacturer and description of products in relation to which applicant is agent

.....

11. Name and address of person actually responsible for import or export

.....

12. Are you an undischarged bankrupt? Yes/ No

13. Have you ever been convicted of any offence under the Act?

Yes/ No

If yes, give date and full details.....

.....

Dated this day of, 20...

.....
 (Name of Applicant or Representative of Applicant)

FOURTH SCHEDULE

(reg. 5)

LICENCES

FORM A

EXPORT LICENCE

Serial No.

Consigner (Name; Address)	Date	
Consignee (Name; Address)		
Agent (Name; Address)	Certificate of Registration No.	
	Country of Origin	Country of Destination
		Documents Attached
	Port of Loading	
Port of Discharge	Final Destination	

<i>Shipping Marks Container No.</i>	<i>Number and Kind of Packages Goods Description</i>	<i>Gross Weight kg</i>	<i>Value MWK FOB/FOR</i>

FOR OFFICIAL USE ONLY

permission is granted to applicant.....

to export the above mentioned goods subject to the under-mentioned conditions

Official stamp and date

DECLARATION OF APPLICANT

I/We the undermentioned hereby apply to export from Malawi the goods detailed above and do declare that to the best of my/our knowledge and belief the information given here is in all respect true and correct.

Date:..... Signature of applicant

Authorised by: Name:..... Signature:..... Date:.....

Issued by: Name:..... Signature:..... Date:.....

FORM B

IMPORT LICENCE

Serial No:

PORT OF ENTRY:.....

MINISTRY OF INDUSTRY, TRADE AND TOURISM

P.O. Box 30366

CAPITAL CITY, LILONGWE 3

Date.....

Name and Address of Applicant (in block letters)

Certificate of Registration Number as an importer.....

A. Country of Supply..... B. Country of Origin.....

C. Quantity and brief description of goods:

.....

.....
D. Customs Tariff Heading

E. Value under Customs Law, in Malawi Currency.....

CONDITIONS:

1. This licence is valid for goods shipped/imported before.....
2. This licence is valid for importation of Tons/Cases of
3. This licence should be accompanied by:
 - (a) Certificate of Origin
 - (b) Commercial Invoice from the Manufacturer
4. In case of Salt, the salt should have iodine content of 80-100 ppm packed in moisture proof 20kg bags or less.

OFFICIAL STAMP:

Authorised by: Name:..... Signature:.....

Issued by: Name:..... Signature:.....

Made this 17th day of June, 2020.

(FILE NO. BL 100)

S. BAGUS
*Minister of Industry,
Trade and Tourism*