

Malawi

Greenbelt Authority Act Act 23 of 2017

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Malawi

Greenbelt Authority Act

Act 23 of 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

1. Short title and commencement

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.

2. Interpretation

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. Designation of Greenbelt area

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

Part II – The Greenbelt Authority

4. Establishment of Greenbelt Authority

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—

- (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. Composition

- (1) The Authority shall consist of—
 - (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]

6. Functions

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. Powers

The Authority shall, in the discharge of its functions, have 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.

8. Co-operation with other bodies

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.

9. Tenure of office

- (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.

10. Vacancies

- (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. Committees

- (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.
- (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.

12. Allowances and expenses

- (1) Members of the Authority and of any of its committees 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.

13. Meetings

- (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.
- (8) Subject to the provisions of this Act, the Authority may make rules to regulate its proceedings and business or the proceedings and business of any of its committee.

14. Personal attendance of meetings

A member of the Authority or committee appointed under [section 5\(1\)\(a\)](#) shall not attend a meeting of the Authority or committee by proxy and where the member is unable to attend any meeting of the Authority or committee, he may request that his apologies for failure to attend be recorded.

15. Disclosure of interest

- (1) If a member of the Authority or a committee is present at a meeting of the Authority or at a meeting of a committee at which any matter which is the subject of consideration is a matter in which that member or his immediate family member or his professional or business partner is directly or indirectly interested, he shall, as soon as practicable, after the commencement of the meeting, disclose his interest and that member shall not take part in any consideration or discussion of, or vote on, any question relating to the matter.
- (2) A disclosure of interest by a member of the Authority or a committee shall be recorded in the minutes of the meeting at which it is made.

16. Oath of secrecy

Every—

- (a) member of the Authority;
- (b) member of a committee;
- (c) member of staff or service provider of the Authority; or
- (d) person invited under [section 5\(7\)](#),

shall, upon assumption of his office, before attending a meeting, take an oath of secrecy in the form set out in the Schedule to this Act and the oath shall be administered by a commissioner of oaths that it was not so done.

17. Protection from liability

- (1) A court action or other proceedings shall not be brought personally against any member, a member of a committee or member of staff of the Authority in respect of any act or omission done in good faith in the course of carrying out the provisions of this Act.

- (2) Where, in any proceedings, a question arises on whether or not an act or an omission was done in good faith in the course of carrying out the provisions of this Act, the burden of proving that the act or the omission was not done in good faith in the course of carrying out the provision of this Act shall be on the person alleging that it was not so done.