

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT 2004

(CAP. 50:03)

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) REGULATIONS, 2008

LICENCE APPLICATION GUIDELINES

PART II - LICENSING

Division II – Production Licence

Application for  
a Production  
Licence

13. Any person who wishes to carry on the business of producing or refining of crude oil, gas, bio-fuel or any other liquid fuel in Malawi shall apply to the Authority for a Production Licence prior to the carrying on of any such business.

Form of  
application for  
a Production  
Licence

14. - (1) The application for a Production Licence shall be made in **Form LFG 1** prescribed in Part I of the First Schedule hereto.

(2) An application for a Production Licence shall be accompanied by the following supporting documents by the applicant-

(a) a five (5) year projected business plan, which shall state comprehensively, the company profile, organisational structure, shareholding or other ownership details and the requisite experience in

liquid fuels or gas production, as the case may be;

(b) a five (5) year proposed investment plan, which shall include the funds flow statement, profit and loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;

(c) the applicant's certificate of incorporation or any instrument of registration under the Laws of Malawi;

(d) the applicant's Memorandum and Articles of Association or any other authorized instrument recognised by the Laws of Malawi, such as a constitution or trust deed;

(e) proof of acquisition of land together with the requisite certificate of approval from the Ministry of Lands or any other authorised Planning Authorities;

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(f) a proposal on how the Applicant shall comply with the Occupational Safety, Health and Welfare Act;

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(g) a proposal on how the applicant shall comply with the Environment Management Act;

(h) proof of the approval of necessary plant and machinery by the Director of Occupational Safety, Health and Welfare as to the suitability of the same for the particular undertaking;

- (i) a scale plan of storage construction and approved building plans of storage tanks and depot equipment by the Malawi Bureau of Standards and the Inspector of Factories; and
- (j) a letter of reference of credit worthiness from at least one local commercial bank and one reputable international bank.

Expenses of Authority in processing a Production Licence

15. All reasonable expenses incurred by the Authority in processing an application for a Production Licence shall be borne by the applicant on prior communication to the applicant by the Authority.

Validity of a Production Licence

16. A Production Licence shall be valid for a period of twelve (12) calendar months from the date of issue.

Application for renewal of a Production Licence and fees

17. - (1) An application for the renewal of a Production Licence where any of the factors set out in regulation 14 (2) have not changed since the date of last application, shall be made in writing to the Authority expressing the Applicant's intention to renew his licence.

(2) An application for the renewal of a Production Licence where any of the factors set out in regulation 14(2) have changed since the date of the last application, shall be made in writing to the Authority in the manner prescribed in regulation 14(1) and shall be accompanied by only the necessary documentary evidence of the factors which have changed.

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(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such

application shall be accompanied by a valid certificate of compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

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(4) Every application for renewal of a Production Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

### Division III - Importation Licence

Application for  
an Importation  
Licence

18. Any person who wishes to carry on the business of importing liquid fuel or gas into Malawi shall apply to the Authority for an Importation Licence prior to the carrying on of any such business.

Form of  
application for  
an Importation  
Licence

19. - (1) The application for an Importation Licence shall be made in Form LFG2 prescribed of Part II in the First Schedule hereto.

(2) An application for an Importation Licence shall be accompanied by the following supporting documents by the applicant-

- (a) a five (5) year projected business plan, which shall state comprehensively, the company profile, organisational structure, shareholding or other ownership details and the requisite experience in liquid fuels or gas, as the case may be;
- (b) a five (5) year proposed investment plan, which shall include the funds flow statement, profit and

loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;

(c) the applicants' certificate of incorporation or any instrument of registration under the Laws of Malawi;

(d) the applicant's Memorandum and Articles of Association or any other authorized instrument recognized by the Laws of Malawi, such as a constitution or trust deed;

(e) proof of acquisition of land together with the requisite certificate of approval from the Ministry of Lands or any other authorized Planning Authorities, where applicable;

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(f) a certificate of compliance with the Occupational Safety, Health and Welfare Act;

(g) a certificate of the environmental impact assessment or management plan issued by the Department of Environmental Affairs;

(h) a scale plan of storage construction equivalent to thirty days storage of expected market share, approved building plans and storage tanks and depot equipment approved by the **Malawi Bureau of Standards** and the Inspector of Factories where applicable; and

- (i) a letter of reference of credit worthiness from at least one local commercial bank and one reputable international bank.

Expenses of Authority in processing an Importation Licence

20. All reasonable expenses incurred by the Authority in processing an application for an Importation Licence shall be borne by the applicant on prior communication to the applicant by the Authority.

Validity of an Importation Licence

21. **An Importation Licence shall be valid for a period of twelve (12) calendar months from the date of issue.**

Application for renewal of an Importation Licence and fees

22. - (1) An application for the renewal of an Importation Licence where any of the factors set out in regulation 19(2) have not changed since the date of last application, shall be made in writing to the Authority expressing the Applicant's intention to renew his licence.

(2) An application for the renewal of Importation Licence where any of the factors set out in regulation 19(2) have changed since the date of last application, shall be made in writing to the Authority in the manner prescribed in regulation 19(1) accompanied by only the necessary documentary evidence of the factors which have changed.

(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such application **shall be accompanied by a valid certificate of**

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compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

(4) Every application for renewal of an Importation Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

#### Division IV – Transportation Licence

Application for a  
Transportation  
Licence

23. Any person who wishes to carry on the business of transporting liquid fuel or gas into or within Malawi shall apply to the Authority for a Transportation Licence prior to the carrying on of any such business.

Form of  
application for a  
Transportation  
Licence

24. - (1) The application for a Transportation Licence shall be made in Form LFG 3 prescribed in Part III of the First Schedule hereto.

(2) An application for a Transportation Licence shall be accompanied by the following supporting documents by the applicant-

(a) a projected business plan covering a period of one (1) year, which shall state comprehensively, the company profile, organisational structure, shareholding or other ownership details and the requisite experience in liquid fuels or gas, as the case may be;

(b) a proposed investment plan covering a period of one (1) year, which shall include the funds flow

statement, profit and loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;

- (c) the applicant's certificate of incorporation or any instrument of registration under the Laws of Malawi or of the country where any such certificate was issued:

Provided that any foreign certificate of incorporation or document of registration shall be subject to the approval of the Authority;

- (d) the applicant's Memorandum and Articles of Association or any other authorized instrument recognised by the Laws of Malawi, or the laws of the country where any such applicant is registered, such as a constitution or trust deed;

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- (e) a certificate of compliance with the Occupational Safety, Health and Welfare Act;

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- (f) proof that its motor vehicles to be used in the transportation business shall comply with the Road Traffic Act; and

- (g) in the case of an Applicant registered in Malawi a letter of reference of credit worthiness from at least one commercial bank in Malawi.



Provided that in the case of an Applicant who is foreign owned, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable commercial bank and one reputable international bank.

Validity of a  
Transportation  
Licence

25. - A Transportation Licence shall be valid for a period of twelve (12) calendar months from the date of issue.

Application for  
renewal of a  
Transportation  
Licence and  
fees

26. - (1) An application for the renewal of Transportation Licence where any of the factors set out in regulation 24(2) have not changed since the date of last application, shall be made in writing to the Authority expressing the applicant's intention to renew his licence.

(2) An application for the renewal of a Transportation Licence where any of the factors set out in regulation 24(2) have changed since the date of last application, shall be made in writing to the Authority in the manner prescribed in regulation 24(1) accompanied by only the necessary documentary evidence of the factors which have changed.

(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such application shall be accompanied by a valid certificate of compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

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(4) Every application for renewal of a Transportation Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

Division V - Storage Licence

Application for a  
Storage Licence

27. Any person who wishes to store on any premises liquid fuel exceeding four hundred (400) litres in Malawi shall apply to the Authority for a Storage Licence prior to the carrying on of any such business or activity.

Form of  
application for a  
Storage Licence

28. - (1) The application for a Storage Licence shall be made in Form LFG 4 prescribed in Part IV of the First Schedule hereto.

(2) An application for a Storage Licence shall be accompanied by the following supporting documents by the applicant-

- (a) a three (3) year projected business plan, which shall state comprehensively, the company profile, organizational structure, shareholding or other ownership details and the requisite experience in liquid fuels or gas, as the case may be;
- (b) a three (3) year proposed investment plan, which shall include the funds flow statement, profit and loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;
- (c) a certificate of incorporation or any instrument of registration under the Laws of Malawi;

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- (d) the Memorandum and Articles of Association or any other authorized instrument recognised by the Laws of Malawi, such as a constitution or trust deed;
- (e) proof of acquisition of land together with the requisite certificate of approval from the Ministry of lands or any other authorized Planning Authorities;
- (f) a description of the quantity and the manner in which any such type of liquid fuel or gas shall be stored;
- (g) a proposal on how the applicant shall comply with the Environment Management Act;
- (h) proof of the approval of necessary plant and machinery by the Director of Occupational Safety, Health and Welfare as to the suitability of the same for the particular undertaking;
- (i) a scale plan of storage construction equivalent to thirty (30) days storage of expected market share, approved by the Malawi Bureau of Standards and the Inspector of Factories;
- (j) a letter of reference of credit worthiness from at least one local commercial bank and one reputable international bank; and
- (k) proof that the storage area, or tank or shed within

the storage area are constructed or erected in compliance with the conditions set out in Part V of these Regulations.

Validity of a Storage Licence

29. A Storage Licence shall be valid for a period of twelve (12) calendar months from the date of issue.

Application for renewal of a Storage Licence and fees

30. - (1) An application for the renewal of Storage Licence where any of the factors set out in regulation 28(2) have not changed since the date of last application, shall be made in writing to the Authority expressing the Applicant's intention to renew his licence.

(2) An application for the renewal of a Storage Licence where any of the factors set out in regulation 28(2) have changed since the date of last application, shall be made in writing to the Authority in the manner prescribed in regulation 28(1) accompanied by only the necessary documentary evidence of the factors which have changed.

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(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such application shall be accompanied by a valid certificate of compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

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(4) Every application for renewal of the Storage Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

Division VI - Wholesale Licence

Application for a  
Wholesale Licence

31. Any person who wishes to carry on the business of wholesaling liquid fuel or gas in Malawi shall apply to the Authority for a Wholesale Licence prior to the carrying on of any such business.

Form of  
application for a  
Wholesale Licence

32. - (1) The application for a Wholesale Licence shall be made in Form LFG 5 prescribed in Part V of the First Schedule hereto.

(2) An application for a Wholesale Licence shall be accompanied by the following supporting documents by the applicant-

(a) a three (3) year projected business plan, which shall state comprehensively, the company profile, organisational structure, shareholding or other ownership details and the requisite experience in liquid fuels or gas, as the case may be;

(b) a three (3) year proposed investment plan, which shall include the funds flow statement, profit and loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;

(c) the applicant's certificate of incorporation or any instrument of registration under the Laws of Malawi;

(d) the applicant's Memorandum and Articles of

Association or any other authorized instrument recognised by the Laws of Malawi, such as a constitution or trust deed;

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- (e) proof of acquisition of land together with the requisite certificate of approval from the Ministry of Lands or any other authorized Planning Authorities;
- (f) a proposal on how the Applicant shall comply with the Environment Management Act;
- (g) proof of the approval of necessary plant and machinery by the Director of Occupational Safety, Health and Welfare as to the suitability of the same for the particular undertaking;
- (h) the applicant's plan of storage construction equivalent to thirty days storage of expected market share, approved building plans and storage tanks and depot equipment approved by the Malawi Bureau of Standards and the Inspector of Factories; and
- (i) the applicant's letter of reference of credit worthiness from at least one local commercial bank and one reputable international bank.

Validity of a Wholesale Licence

33. A Wholesale Licence shall be valid for a period of twelve (12) calendar months from the date of issue.

Application for renewal of a Wholesale Licence and fees

34. - (1) An application for the renewal of a Wholesale

Licence where any of the factors set out in regulation 32(2) have not changed since the date of last application, shall be made in writing to the Authority expressing the applicant's intention to renew his licence.

(2) An application for the renewal of a Wholesale Licence where any of the factors set out in regulation 32(2) have changed since the date of last application, shall be made in writing to the Authority in the manner prescribed in regulation 32(1) accompanied by only the necessary documentary evidence of the factors which have changed.

(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such application shall be accompanied by a valid certificate of compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

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(4) An application for renewal of a Wholesale Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

#### Division VII - Retail Licence

Application for  
a Retail Licence

35. Any person who wishes to carry on the business of retailing of liquid fuel or gas in Malawi shall apply to the Authority for Retail Licence prior to the carrying on of any such business.

Form of  
application for a  
Retail Licence

36. - (1) The application for a Retail Licence shall be made

in Form LFG 6 prescribed in Part VI of the First Schedule hereto.

(2) An application for a Retail Licence shall be accompanied by the following supporting documents by the applicant-

- (a) a three (3) year projected business plan, which shall state comprehensively, the company profile, organisational structure, shareholding or other ownership details and the requisite experience in liquid fuels or gas, as the case may be;
- (b) a three (3) year proposed investment plan, which shall include the funds flow statement, profit and loss balance sheet, implementation plan, human resources plan, market projections and financial or cash flow projections;
- (c) the applicant's certificate of incorporation or any instrument of registration under the Laws of Malawi;
- (d) the applicant's Memorandum and Articles of Association or any other authorized instrument recognised by the Laws of Malawi, such as a constitution or trust deed;
- (e) proof of acquisition of land together with the requisite certificate of approval from the Ministry of Lands or any other authorized Planning Authorities where applicable;



- (f) a proposal on how the applicant shall comply with the Environment Management Act;
- (g) proof of the approval of necessary plant and machinery by the Director of Occupational Safety, Health and Welfare as to the suitability of the same for the particular undertaking;
- (h) a scale plan of storage construction equivalent to thirty days storage of expected market share, approved building plans and storage tanks and depot equipment approved by the Malawi Bureau of Standards and the Inspector of Factories; and
- (i) a letter of reference for credit worthiness from at least one commercial bank in Malawi.

Validity and renewal of a Retail Licence

37. A Retail Licence shall be valid for a period of twelve (12) calendar months from the date of issue.

Application for renewal of a Retail Licence and fees

38. - (1) An application for the renewal of a Retail Licence where any of the factors set out in regulation 36(2) have not changed since the date of last application, shall be made in writing to the Authority expressing the applicant's intention to renew his licence.

(2) An application for the renewal of a Retail Licence where any of the factors set out in regulation 36(2) have changed since the date of last application, shall be made in writing to the Authority in the manner prescribed in regulation 36(1) accompanied by only the necessary documentary evidence of the

factors which have changed.

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(3) Where a licensee applies for renewal of his licence for the first time since the date of the first licence, any such application shall be accompanied by a valid certificate of compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act.

(4) An application for renewal of the Retail Licence shall be accompanied by the application fees prescribed in the Third Schedule hereto.

Standards for construction and maintenance of retail fuel outlets

39. The Authority shall prescribe the standards to be followed in the construction and maintenance of retail fuel outlets, and the Authority shall not issue or renew a Retail Licence unless the applicant's retail outlet complies with the standards prescribed by the Authority.

Division VIII – Prohibition of exportation of liquid fuels and gas

Prohibition of exportation of liquid fuels and gas

40. - (1) The exportation of petrol, diesel, paraffin, aviation fuels and gas from Malawi is hereby prohibited.

(2) Any person who exports liquid fuels or gas from Malawi commits an offence and shall, on conviction, be liable to a fine of two thousand Kwacha (K2,000) and to imprisonment for six (6) months.

## PART IX – MISCELLANEOUS PROVISIONS

### Inspection

131. - (1) An Inspector, a member or any person authorized by the Authority may, for the purposes of monitoring compliance with these Regulations enter any premises and-

- (a) inspect or search those premises;
- (b) examine any facility, construction, equipment or object found in or upon those premises;
- (c) examine or make copies of or take extracts from any book or document found on those premises;
- (d) seize any book, document or any object, if he wishes to retain it for safe custody or for further examination, and if it appears to provide proof of non-compliance with these Regulations; and
- (e) any conditions of a licence set under these Regulations.

(2) Any person who obstructs an Inspector or any officer authorized by the Authority from inspecting any premises, or from entering any premises for purposes of inspecting them, commits an offence and shall, on conviction, be liable to a fine of two thousand Kwacha (K2000) and to imprisonment for six (6) months.

### Provision of information

132. Every holder of a licence under these regulations shall provide information to the Authority about any liquid fuels or gas

it deals with including any information on amounts, prices, specifications in the manner prescribed by the Authority.

General offence  
and penalties

133. - (1) Any licensee or person who contravenes any Part of these Regulations commits an offence and shall, on conviction, be liable to a fine of two thousand kwacha (K2000) and to imprisonment for six (6) months.

(2) In addition to the penalties provide for the offences under these Regulations, a court may also order that the guilty person repay any expenses incurred by the Authority or any other person as a consequence of the offence.