

**LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) BILL, 2004**

**ACT  
NO. 23 of 2004**

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**An Act to make provisions for production, blending, extraction, conversion, importing, transforming, transporting, storing, distributing and selling liquid fuels and gas in a liberalized market and for matters connected therewith or incidental thereto**

ENACTED by the Parliament of Malawi as follows -

**PART I - PRELIMINARY**

Short title And commencement	<p><b>1.</b> This Act may be cited as the Liquid Fuels and Gas (Production and Supply) Act, 2004 and shall come into operations on such date as the Minister may, by notice published in the <i>Gazette</i>.</p>
Application	<p><b>2.</b>(1) The provisions of this Act shall apply to the production, extraction, conversion, importation, blending, transportation, storage, distribution, wholesale and retail sale of liquid fuels and gas and related activities within Malawi and in the event that natural gas is used as boiler fuel, feed stock or for other commercial purposes in Malawi, all provisions of this Act which refer to liquid fuels and gas shall also apply to natural gas, whether imported or produced in Malawi, including compressed and liquefied natural gas.</p> <p>(2) The provisions of this Act shall apply to all persons, whether individual or body corporate, all departments and other entities of the Government, the Malawi Defence Forces, all public corporations and all corporations under the Companies Act, subject to specific exemption for military and other entities for reasons of national security which must be authorized by the Minister by notice published in the <i>Gazette</i>.</p>
Act not to apply to exploration of oil and gas	<p><b>3.</b>The activities and installations related to the prospecting, exploration, discovery and development of oil and gas within Malawi as well as the storage, transportation and transformation of such oil and gas within the limits of the development area shall be governed by the Petroleum the</p>
Cap. 61:01	<p>Exploration Act and its subsidiary legislation.</p>

Interpretation	<b>4.</b> In this Act, unless the context otherwise requires -
No. 20 of 2004	<p>“Authority” means the Malawi Energy Regulatory Authority established under section 3 of the Energy Regulation Act;</p> <p>“chain of supply” means all operations, activities, installation equipment and other facilities directly or indirectly related to liquid fuels and gas supply operations;</p> <p>“commercial storage” means liquid fuels and gas storage held by a licensee for his day to day commercial operations;</p>
No. 14 of 2003	“consumer” has the meaning assigned thereto in the Consumer Protection Act;
Cap. 61:01	<p>“exploration area” has the meaning assigned thereto in the Petroleum Exploration Act;</p> <p>“franchising” means an agreement between a licensee and a retail dealer where the retail dealer is permitted to retail liquid fuels and gas under a designated business name;</p> <p>“importation” means buying liquid fuels and gas from sources outside Malawi by a licensee;</p> <p>“international haulage” means transportation of liquid fuels and gas into Malawi delivered at designated storage facilities of a licensee holding a storage licence;</p> <p>“internal distribution” means transportation of liquid fuel and gas within Malawi from storage facilities to wholesale and retail outlets;</p> <p>“licence” means a licence issued by the Authority under this Act;</p> <p>“licensee” means the holder of a licence under this Act;</p> <p>“liquid fuels and gas” means organic compounds, pure or blended, which are derived from the refining and/or processing of crude oils or mixes of the same or refined from plant organic materials and which include, but are not limited to, the following –</p> <p style="padding-left: 40px;">(a) asphalts, bitumens, coke and other residual products;</p>

- (b) bunkers or heavy residual fuel oils for combustion engines or industrial heat processes such as burners for boilers or heating furnaces;
- (c) commercial gases – methane, ethane, propane, butane, LPG and other similar gases or mixture of these gases whether in gaseous or liquefied state;
- (d) gasoil or automotive industrial or marine diesel;
- (e) gasolines (petrol) or naphtha products;
- (f) kerosene or other similar oils for illumination or combustion applications;
- (g) lubricating oils – base oils and/or refined and blended finished oils
- (h) turbo fuels for jet propulsion engines;
- (i) fuel ethanol; and
- (j) other products or by-products of crude oil processing having a Flash Point lower than 120 degrees celsius, as determined in a Pensky-Martens closed test apparatus;

“liquid fuels and gas supply undertaking operations” means any operation or installation and activities for or in connection with the import, landing, loading, transformation, transport, storage, distribution, wholesale, retail or franchising of liquid fuels and gas products which are owned and operated by a licensee;

“production area” means the area constituted by a block that is or by blocks that are subject to a liquid fuel and gas productions licence;

“retailing” means selling of liquid fuels and gas on retail terms by a holder of a retail licence;

“strategic fuel reserve storage” means liquid fuels storage held by Government for strategic purposes;

“transportation” means the international haulage and local distribution of liquid fuels and gas by a licensee;

“wholesaling” means selling of liquid fuels and gas on wholesale terms by a holder of a wholesale licence.

## PART II - GENERAL PRINCIPLES OF THE ACT

Objectives

5. The objectives of this Act are to -

- (a) assure that the liquid fuels and gas supply of Malawi is adequate, reliable, efficient and economical for the country and the consumers;
- (b) protect the public safety, health and the environment in all liquid fuels and gas supply operations and installations;
- (c) protect the occupational safety, health and welfare of people working in the liquid fuels and gas supply industry;
- (d) assure equal access to liquid fuels and gas products of adequate quality at competitive prices for all consumers;
- (e) eliminate discrimination or preferential treatment of any participant and to prevent monopolistic control of any segment of the chain of supply;
- (f) create favourable conditions for new participation and investors in order to improve and expand the infrastructure of the chain of supply; and
- (g) promote empowerment of Malawians to participate in the liquid fuels and gas supply industry through operation and ownership of retail outlets.

Activities in chain of supply open to any person

6. (1) Any and all activities in the chain of supply, save those mentioned in paragraph (g) of section 5, shall be open to any person whether private or public, domestic or foreign subject to the provisions of this Act and other applicable written legislation.

(2) A holder of a wholesale licence shall own and run a maximum of two retail outlets and shall franchise out the rest of his retail outlets to Malawians.

## PART III – FUNCTIONS OF THE MINISTER

Functions of the Minister

7. The Minister, or any person to whom the functions referred to in this subsection have been delegated by notice published in the *Gazette*, shall -



- (a) advise the President and the Cabinet on liquid fuels and gas policy matters and supply strategies;
- (b) initiate legislation and make the necessary regulations in order to assure that there is at all times a continuous, secure and adequate supply of liquid fuels and gas at competitive price for all consumers and ensure the availability of adequate import, transport, storage and distribution facilities within and outside the country in the chain of supply;
- (c) oversee the Strategic Fuel Reserves Facility;
- (d) approve the National Liquid Fuels and Gas Emergency Plan;
- (e) impose levies; and
- (f) perform those other functions assigned to him by this Act or other applicable laws and regulations.

#### **PART IV- LIQUID FUELS AND GAS PRODUCTION LICENCE**

Obligation to obtain a production licence

**8.** No person shall carry out production activities without having obtained a production licence in accordance with the provisions of this Act.

Production activities to be licenced

**9.** The following production activities shall be licenced by the Authority –

- (a) the production of crude oil and gas;
- (b) the refining of crude oil into refined products;
- (c) the production of ethanol fuel; and
- (d) the production of bio-diesel.

Application for a production licence

**10.** (1) An application licence for one or more production activities shall be in a prescribed form, and shall be filed with the Authority.

(2) The procedure for filing, evaluating and approving the applications and the documentation to be submitted by the applicant under subsection (1) shall be determined by regulations.

(3) During the process of application, evaluating and approval, all applicants shall be treated equally without any discrimination or preferences and the Authority may not require or impose any terms or conditions, which are not specified or authorized by this Act.

(4) Whenever required by the applicable legislation or regulations, the applicant shall obtain the necessary environmental authorization, prepare and file an environmental management plan or an environmental impact study as a condition for obtaining a production licence under this Act.

Application fees  
and expenses

**11.**(1) The Authority may employ experts for the purpose of evaluating application and the Authority shall pay for the services of such experts.

(2) An applicant for a production licence or for its renewal or assignment shall pay an application fee to the Authority.

(3) The expenses for experts under subsections (1) and the application fees under subsection (2) shall be prescribed by the regulations.

Approval of applications

**12.**(1) The Authority shall, after due evaluation of the application under section (10) issue a production licence in the prescribed form and may establish special terms and conditions.

(2) The Authority shall notify the applicant of the approval or rejection of his application for granting, renewal or assignment within thirty days from the date of receipt of an application for a production licence and if the application is rejected the Authority shall notify the applicant in writing stating the reasons for the rejection of the application.

(3) If the applicant is not notified within the period stated in subsection (2), the applicant may serve written notice on the Authority and the Authority shall, within fourteen days from the receipt of such notice, review the application and notify the applicant of its decision to approve or reject the application. If the applicant is not so notified within the period of fourteen days, the application shall be deemed to be approved by the Authority and the applicant shall be entitled to immediately receive the appropriate documentation by the Authority confirming the granting, renewal or assignment of the production licence as applied for.

Validity of production  
licences

**13.** A production licence issued under section 12 shall have duration of one to five years depending on the type of activity the licence covers and shall be renewable in accordance with conditions prescribed in regulations.

Assignment of production licences	<b>14.</b> No production licence issued under section 12 may be assigned by or transferred from the holder to another person without the prior written approval of the Authority, unless otherwise provided for in regulations.
Suspension, revocation or termination of a production licence	<p><b>15.</b> Notwithstanding any other remedies or penalties for or offence provided for under this Act or any written law-</p> <p>(a) a production licence may be suspended by the Authority in case of violations of provisions of the Act concerning the protection of occupational safety, health and welfare, public safety, public health and the environment or for other reasons stated by this Act or other Energy Laws;</p> <p>(b) a production licence may be revoked by the Authority or shall be automatically terminated in the event that the holder fails to remedy or repeats violation of provisions of this Act concerning the protection of occupational safety, health, welfare, public safety, public health and the environmental and other reasons stated by this Act; and</p> <p>(c) a production licence may be revoked by the Authority at the instance of the holder of the licence applying for revocation or termination in accordance with regulations.</p>

#### **PART V – LIQUID FUELS AND GAS CONSTRUCTION AND OPERATING LICENCES**

Obligation to obtain a licence	<p><b>16.</b> (1) No person shall carry out the construction or modification of installations and facilities of the chain of supply without having obtained a licence in accordance with the provisions of this Act.</p> <p>(2) No person shall perform liquid fuels and gas supply operations mentioned in section 17 without having obtained a licence in accordance with the provisions of this Act.</p>
Activities to be licenced	<p><b>17.</b> The following activities in the chain of supply shall be licenced by the Authority –</p> <p>(a) the importation of liquid fuels and gas;</p> <p>(b) the wholesaling of liquid fuels and gas;</p> <p>(c) the storage of liquid fuels and gas;</p> <p>(d) the transportation of liquid fuels and gas; and</p> <p>(e) the retailing of liquid fuels and gas.</p>

Application for a licence

**18.** (1) An application for a licence for one or more activities in the chain of supply shall be in a prescribed form, and shall be filed with the Authority.

(2) The procedure for filing, evaluating and approving the applications and the documentation to be submitted by the applicant under subsection (1) shall be prescribed by regulations.

(3) The Authority shall, during the process of application, evaluating and approval, treat all applications equally without any discrimination or preferences and the Authority may not require or impose any terms or conditions, which are not specified or authorized by this Act.

(4) Whenever required to do so by any applicable written law, the applicant shall obtain the necessary environmental authorization, prepare and file an environmental management plan and an environmental impact study as a condition for obtaining a licence under this Act.

Application fees  
and expenses

**19.** (1) The Authority may employ experts for the purpose of evaluating an application under section 18 and the Authority shall pay for the services of such experts.

(2) An applicant for a licence or for its renewal or assignment shall pay an application fee to the Authority.

(3) The expenses for experts under subsection (1) and the fees under subsections (2) shall be prescribed by regulations.

Approval of applications

**20.** (1) The Authority shall, after due evaluation of the application issue a licence in the prescribed form and may establish special terms and conditions,

(2) The Authority shall notify the applicant of the approval or rejection of his application for granting, renewal or assignment within thirty days from the date of receipt of an application for a production licence and if the application is rejected the Authority shall notify the applicant in writing stating the reasons for the rejection of the application.

(3) If the applicant is not notified within the period stated in subsection (2), the applicant may serve written notice on

the Authority and the Authority shall, within fourteen days from the receipt of such notice, review the application and notify the applicant of its decision to approve or reject the application. If the applicant is not so notified within the period of fourteen days, the application shall be deemed to be approved by the Authority and the applicant shall be entitled to immediately receive the appropriate documentation by the Authority confirming the granting, renewal or assignment of the production licence as applied for.

Validity of licences

**21.** A licence issued under section 20 shall have a duration of one to five years depending on the type of activity the licence covers and shall be renewable in accordance with conditions prescribed in regulations.

Assignment of licences

**22.** No licence issued under section 20 may be assigned by or transferred from the holder to another person without the prior written approval of the Authority, unless otherwise provided for in regulations.

Suspension, revocation  
or termination of licences

**23.** Notwithstanding any other remedies or penalties for offences provided for under this Act or other legislation

- (a) a licence may be suspended by the Authority in case of violations of provisions of the Act concerning the protection of occupational safety, health and welfare, public safety, public health and the environment or for other reasons stated by this Act or other Energy Laws;
- (b) a licence may be revoked by the Authority or shall be automatically terminated in the event that the holder fails to remedy or repeats violation of provisions of this Act concerning the protection of occupational safety, health, welfare, public safety, public health and the environmental and other reasons stated by this Act; and
- (c) a licence may be revoked by the Authority at the instance of the holder of the licence applying for revocation or termination in accordance with regulations made under this Act.

## **PART VI - OBLIGATIONS OF THE HOLDERS OF LICENSES**

Compliance with laws,  
regulations, standards  
and specifications

**24.** All licensees and all persons working under the direction of, licencees, as well as the installations and equipment used by them, shall comply with all applicable laws and regulations, standards and technical specifications

concerning the protection of occupational safety, the protection of occupational safety, health, welfare, public safety, public health and the environment and with other applicable written laws.

Inspection and information

**25.** (1) A licensee shall submit or make available for inspection reports, keep records and furnish information as required by the Authority for the purpose of carrying out the provisions of this Act.

(2) A licensee shall maintain an address in Malawi to which communications may be sent and shall give notice to the Authority of that address and any change thereof.

(3) For the purpose of carrying out inspections or other monitoring and enforcement actions as specified in the regulations, the Authority may at any time enter upon any area, premises or working area where construction works of liquid fuels and gas production and supply operations are being performed by a licensee.

Minister to establish minimum stock requirement

**26.** (1) In order to assure the security and continuity of the liquid fuels and gas supply of the country, the Minister, on recommendation of the Authority, may require that all or certain groups of licensees, including industrial consumers buying for wholesale distributors are required to maintain commercial stocks and minimum stocks of liquid fuels and gas or of all certain liquid fuels and gas products which they handle and taking into account the required storage capacity as stated in their respective licences.

(2) The details of the minimum stocks of liquid fuels and gas referred to in subsection (1) shall be specified in regulations.

National Liquid Fuels and Gas Information System

**27.** There is hereby established the National Liquid Fuels and Gas Information System which shall be organized and maintained by the Authority.

(2) All information contained in the National Liquid Fuels and Gas Information System shall be available for inspection by any public or private person with the exception of information which has been qualified as confidential in order to protect proprietary market data or for other lawful reasons as defined by the Authority at his discretion.

Reports and information  
to be submitted

**28.** (1) Every licensee shall submit to the Authority periodic reports and other information for the National Liquid Fuels and Gas Information System as prescribed by the Authority, by regulations.

Central Registry of  
of Liquid Fuels and Gas  
Operations

**29.** (1) The Authority shall establish and maintain the Registry of Liquid Fuels and Gas Operations which shall form part of the National Liquid Fuels and Gas Information System.

(2) The Central Registry of Liquid Fuels and Gas Operations shall include a record of all applications, grants, variations, assignments, other transfers, suspensions and revocations of licences and all relevant information about the holders and their operations and installations.

(3) The Central Registry of Liquid Fuels and Gas Operations maintained by the Authority under section (1) shall be open to public scrutiny.

#### **PART VII - ASSURANCE OF FAIR COMPETITION**

Prohibition against activities  
contrary to principles  
fair competition

**30.** (1) All liquid fuels and gas operations shall be subject to the provisions of any written law which prohibit anti-competitive trade practices and regulate and monitor monopolies and concentrations of economic power as defined in such written law and which are contrary to the principles of fair competition or are intended to impede the functioning of a free market for liquid fuels and gas products in the country.

(2) Subject to the provisions of any written law regulating competition and fair trading, all participants in the chain of supply shall sell their products and offer their services to all interested persons without undue delay and without any form of deliberate discrimination by means of quality, quantity or price.

(3) The Authority shall monitor the conditions of the market and the trade practices of the participants in the chain of supply and shall cooperate with and assist any competent authority in the exercise of its functions under any written law regulating competition and fair trading and in the determination and prosecution of offences thereunder.

Negotiated access to unused capacities of third party facilities

**31.** (1) In order to foster the creation of a competitive liquid fuels and gas product market for present and future participants in the access to essential facilities, such as depots, pipelines and marine terminals a licensee who is the operator or owner of a facility, which has the availability of unused capacities, may, subject to subsection (2) negotiate in good faith with any qualified person interested in the usage of all or part of such capacity in order to establish the tariff and other reasonable terms and conditions for using the facility.

(2) A person interested to utilize the unused capacity of a licensee referred to in subsection (1) shall hold or have applied for the licence required for the respective operation and shall provide proof of his capability to pay the tariff and fulfill other financial and technical conditions as agreed upon with the owner or operator of the facility.

(3) Any agreement negotiated under subsection (1) shall be subject to approval by the Authority.

(4) The minimum terms and conditions of the agreements to be approved by the Authority under subsection (3) shall be prescribed in regulations.

### **PART VIII - PROTECTION OF OCCUPATIONAL SAFETY, HEALTH AND WELFARE, PUBLIC SAFETY, PUBLIC HEALTH AND THE ENVIRONMENT**

Adoption and adaptation of international standards and specifications

**32.** (1) In order to upgrade the quality of the infrastructure of the chain of supply and the services provided by licensees to the standards of the international liquid fuels and gas industry, the Authority, in cooperation with the relevant agencies, shall develop and establish national standards that are in line with prevailing international standards, technical specifications and codes of practice.

(2) The Authority may adopt and declare as compulsory standards in accordance with the provisions of this Act, the standards, specifications, and codes of practice as established under subsection (1) by the organizations which are recognized by the international liquid fuels and gas industry in matters of quality, industrial safety and environmental protection after being adapted as necessary, taking into account the social-economic realities of the domestic liquid fuels and gas market and the technical conditions and required adjustment periods and transitory exceptions for the chain of supply.



(3) The Authority, in coordination with the competent environmental authorities, shall ensure that where a licensee abandons a site for whatever reason, such site is restored to such environmental standards acceptable to both the competent environmental authorities and the Authority.

Environment impact studies

**33** (1) The Authority, in coordination with the competent environmental authorities, shall establish the classification of liquid fuels and gas supply operations projects within the chain of supply which shall require environmental impact assessment studies under the relevant written law as a condition of the granting of a licence under this Act.

(2) In the event that an environmental impact study is required or other conditions are to be met in accordance with special legislation for the protection of the environment, the Authority shall refer the applicant to the competent environmental authorities.

#### **PART IX – NATIONAL LIQUID FUELS AND GAS EMERGENCY PLAN AND THE STRATEGIC FUEL RESERVE STORAGE**

National Liquid Fuel and Gas  
Emergency Plan

**34.** (1) In order to respond to accidents, emergencies, natural disasters or other interruptions or distortions of the product liquid fuels and gas supply by *force majeure*, negligence or willful misconduct, the Authority, shall elaborate a National Liquid Fuels and Gas Emergency Plan.

(2) The details of the elaboration, content and implementation of the National Liquid Fuels and Gas Emergency Plan shall be established by regulations.

(3) The National Liquid Fuels and Gas Emergency Plan shall be approved and published by the Minister in the *Gazette*.

(4) In case of emergency for the reasons mentioned in subsection (1) the Authority, after consultation with the Minister, may temporarily intervene in the chain of supply or implement other measures or restrictions provided for in the Plan.

Strategic Fuel  
Reserve Storage

**35.** The Government shall establish and manage a Strategic Fuel Reserve Storage

**PART X - PRODUCT PRICES, TAXES AND LEVIES**

Approval of prices

**36** (1) The price band for liquid fuels and gas products throughout the chain of supply shall be approved by the Authority from time to time.

(2) The Authority shall establish adequate procedures for the monitoring of consumer prices for liquid fuels and gas and shall monthly publish the results and reference prices to be used for monitoring purposes as shall be calculated by the Authority in accordance with a formula to be prescribed by regulations.

(3) A licensee shall not charge a consumer any other price more than that approved by the Authority.

Advisory Committee  
No. 20 Of 2004

**37.** (1) In addition to any advisory committee that the Authority may establish under section 16 of the Energy Regulation Act, 2004 the Authority shall establish the following committees-

- (a) Liquid Fuels and Gas Pricing Advisory Committees; and
- (b) Liquid Fuels and Gas Licensing Advisory Committee.

(2) The composition of the Advisory Committees established under subsection (1) shall be published in the *Gazette*.

Levies

**38.**(1) The Minister may, by order published in the *Gazette*, impose the levies specified in the Schedule on sales of liquid fuels and gas.

(2) The Minister may, by order published in the *Gazette*, amend the Schedule.

(3) The sums of money raised by way of the levies imposed by the Minister under section (1) shall be collected and disbursed to the relevant institutions by the Authority.

**PART XI – MEDIATION AND APPEALS**

Mediation by the Authority

**39** (1) Any dispute between licensees in the chain of supply or between a licensee and a consumer concerning the application of this Act may be brought by any of the parties involved before the Authority for mediation under the Energy Regulation Act, 2004.

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(2) The Authority may ask the partners to appear before him and may request for information and documentation which he considers necessary and may conduct other investigations.

Appeal to the High Court

**40.** Any person who is aggrieved by any decision of the Authority may appeal to the High Court.

## **PART XII - OFFENCES AND PENALTIES**

Offences

**41.** Any person commits an offence who –

- (a) refuses, delays or fails to produce any documents or other information relating to liquid fuels and gas production and supply operations and installations which may be required to produce under this Act;
- (b) knowingly or without reasonable grounds for believing the same to be true furnishes documents or other information which are false or misleading in any material aspect whether upon demand or otherwise;
- (c) publishes or otherwise discloses any information in contraventions of any provision of this Act;
- (d) resists, hinders or obstructs an officer of the Authority or any other person who acts in compliance with the provisions of this Act to enter or inspect any premises or to stop and search any vehicle or to examine any books, accounts or other records or to otherwise comply with his duties and rights under this Act; or
- (e) refuses, delays or fails to comply with any order, prohibition, direction, demand, requirement or notice lawfully made, served, published or otherwise given under this Act.

Penalties

**42.** Any person who commits an offence under this Act shall be liable upon conviction to a fine of K50, 000,000.00 and to imprisonment for ten years.

Joint liability

**43.(1)** Where a person charged with any offence under this Act is a body corporate and every person who, at the time of the occurrence of the offence, was a chief executive officer, manager or officer of such body corporate, may be charged jointly in the same proceedings with the body

corporate if that person was a party to the commission of the offence.

(2) Any partner in any firm shall be answerable and jointly and severally liable for the acts or omissions of any other partner in the same firm in so far as they concern the firm.

(3) Any employer who employs in or for his operation or place of business any agent, clerk, servant or other person, shall be answerable and liable for any acts or omissions of such employees in so far as they concern the business of the licensee.

Initiation of actions  
by consumers

**44.** Any consumer of liquid fuels and gas products or any recognized consumer organization may initiate action against any licensee for offences under this Act, provided that such consumer or consumer organization has previously filed a complaint with the Authority and feels aggrieved by its acts or omissions in response to such complaint.

### **PART XIII – MISCELLANEOUS PROVISIONS**

Rehabilitation of area  
damaged by operations

**45.** (1) There may be included in a licence such conditions relating to –

- (a) the reinstatement, leveling, regressing, reforesting and contouring of any part of the area that may have been damaged or deleteriously affected by operations of a licensee; and
- (b) the filling in, sealing or fencing off, of excavations, shafts and tunnels, as the Authority may, in any particular case, determine.

(2) Where any conditions is to be included in a licence pursuant to subsection (1), the Authority may require the licensee to lodge with the Authority, within such time as the Authority may require, security for the performance of the conditions in such amount and form as the Authority may deem appropriate.

Regulations

**46.** The Minister may, in consultation with the Authority, make such regulations as he may deem expedient to give force or effect to this Act or for its better administration.

By-laws

**47.** The Authority may make by-laws to give effect to this Act or for its better administration and shall publish a draft of the proposed by-laws for comment by members of the

public or licensees and shall consider any comments given before putting such by-laws into effect.

Transitory regime  
for licences

**48.** (1) Where any lawful act or thing required or permitted to be done by or under this Act was done before the effective date of this Act, it shall be deemed to have been done under or by virtue of this Act.

(2) The present licensees in the chain of supply, whether licenced or not under any other applicable legislation, are obligated to adjust their operations and facilities in order to comply with the provisions of this Act within a transition period of not more than twelve months from the effective date of this Act, subject to a transitory regime which shall be proposed by the Authority for approval by the Minister and before the expiration of the respective transition period each licensee in the chain of supply shall apply for the applicable licences under this Act.

(3) Any person who held a licence relating to the chain of supply before the commencement of this Act shall be required to obtain a new licence from the Authority within ninety days of the coming into force of this Act.

Repeal and savings

**49.** (1) The following Acts are repealed –

Cap. 50:08

(a) the Petroleum Control Commission Act; and

Cap. 50:03

(b) the Petroleum Act.

(2) Any subsidiary legislation made under the Acts repealed by subsection (1), in force immediately before the commencement of this Act –

(a) shall remain in force unless in conflict with this Act and shall be deemed to be subsidiary legislation made under this Act; and

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

Cap. 14:02

(3) The Preservation of Public Security (Conservation of Motor Fuel) Regulations made under the Preservation of Public Security Act shall be deemed to be subsidiary legislation made under this Act; and shall be administered by the Authority.

**SCHEDULE** (s.38)  
**LEVIES**

1. Road levy
2. Malawi Bureau of Standards cess
3. Rural electrification levy
4. Maize/drought levy
5. Fuel price stabilization levy

*Passed in Parliament this nineteenth day of March two thousand and four*