

NATIONAL STATISTICS ACT, 2013

NATIONAL STATISTICS ACT, 2013

MEMORANDUM

This Act seeks to repeal the Statistics Act, and to make provision for the better collection, compilation, analysis, publication and dissemination of statistical information.

The Act is divided into five (5) Parts.

Part I of the Act provides for preliminary matters, including the interpretation of certain words and terms used in the Act.

Part II provides for the establishment and functions of the National Statistical Office, including the appointment and duties of the Commissioner for Statistics.

Part III provides for the establishment and functions of the National Statistical System.

Part IV provides for requirements for surveys to be conducted by private or foreign institutions, the employment of assistants to assist the Commissioner for Statistics, for power of entry and inspection, disclosure of information and confidentiality and the relationship between the National Statistical Office and other bodies.

Part V provides for the miscellaneous provisions including the requirements for the oath of office and secrecy, code of practice for official statistics and the power to make Regulations.

NATIONAL STATISTICS ACT, 2013

ARRANGEMENT OF SECTIONS

SECTION

PART I- PRELIMINARY

1. Short title
2. Interpretation

PART II- ESTABLISHMENT OF THE NATIONAL STATISTICAL OFFICE

3. Establishment of the National Statistical Office
4. Appointment of the Commissioner for Statistics
5. Duties of the Commissioner for Statistics
6. Employment of assistants

PART III-ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL STATISTICAL SYSTEM

7. Establishment of the National Statistical System
8. Functions of the National Statistical System

PART IV- STATISTICAL INFORMATION AND POWERS OF THE NATIONAL STATISTICAL OFFICE

9. Statistical surveys by private or foreign institutions
10. Power to obtain particulars
11. Compilation of list of respondents
12. Power of entry and inspection
13. Disclosure of information and confidentiality
14. Dissemination of statistical data

PART V- MISCELLANEOUS PROVISIONS

15. Relationship with other bodies
16. Offences and penalties
17. Oath or Affirmation of office and Secrecy
18. Code of Practice for official statistics
19. Special reports and investigations
20. Regulations
21. Amendment of schedules
22. Repeal and savings

FIRST SCHEDULE
SECOND SCHEDULE

A ACT
entitled

An Act to make provision for the establishment of the National Statistical office and the National Statistical System; for the collection, compilation, analysis, abstraction, publication and dissemination of statistical information; and for matters connected therewith and incidental thereto

ENACTED by the Parliament of Malawi as follows-

PART I- PRELIMINARY

- | | | |
|----------------|----|---|
| Short title | 1. | This Act may be cited as National Statistics Act, 2013. |
| Interpretation | 2. | In this Act, unless the context otherwise requires- |
| | | “authorized officer” means any person appointed as an authorized officer under section 9 and includes a supervisor, enumerator, coder and data entry clerk; |
| | | “census” means a statistical operation in which all units of interest or the whole population are enumerated; |
| | | “Commissioner” means the public officer holding or acting in the office of Commissioner for Statistics appointed under section 4; |

“National Statistical System” refers to public agencies responsible for producing, analysing, disseminating and using statistics, and encompasses the statistical outputs produced and the people involved, including both producers and users of statistics;

“official statistics” means any quantitative, qualitative, aggregate and representative information relating to any matter contemplated in the First Schedule and produced by the National Statistical Office, and includes any information produced by line government ministries, departments and public authorities, provided that such information shall become official statistics after the Commissioner shall have endorsed the information with a stamp of quality;

“respondent” means any person who supplies or is required to supply statistical information;

“return” means any book, document, form, card, tape, disc or storage media on which information required is entered or recorded or is required to be entered or recorded for statistical purposes under this Act;

“statistical sample survey” means a statistical operation in which only a selected part or sample and not all units of interest or the whole population are enumerated;

“statistics” means any quantity collected as a summary of data;

“survey” includes a survey of undertakings or persons whereby information is collected from all persons in a field of inquiry or from a sample thereof, wholly or primarily for statistical purposes;

“undertakings” means any undertaking by way of trade or business whether or not the trade or business is carried out for profit, and includes a ministry or Government department, statutory body, local government body, and any other organization or body of persons or any part thereof and includes a branch of undertakings.

PART II- ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL STATISTICAL OFFICE

Establishment of
the National
Statistical Office

3.- (1) There is hereby established the National Statistical Office which shall be a Government Department.

(2) The National Statistical Office shall be the central depository of all official statistics produced in Malawi.

Appointment of
Commissioner
for Statistics

4.- (1) There shall be a Commissioner for Statistics who shall be appointed by the President.

(2) The Commissioner shall be responsible for the administration and control of the National Statistical Office.

Duties of the
Commissioner
for Statistics

5.- (1) It shall be the duty of the Commissioner to advise and report to the Minister generally on statistical matters, and, subject to any special or general directions of the Minister-

- (a) to carry out any of the functions imposed on him under this Act;
- (b) to advise the Minister on statistical policy matters, and where appropriate, to consult and liaise with other appropriate officers of Government ministries and departments;
- (c) to advise Government ministries and departments on the conception of statistical projects initiated or carried out by such ministries and departments;
- (d) to define, lay down and promote standard concepts, procedures, definitions and classification for use in official statistics;
- (e) to collect, compile, analyze, abstract and publish or otherwise disseminate, statistical information relating to matters specified in the First Schedule;
- (f) to organize a coordinated scheme of statistics relating to Malawi;
- (g) to ensure the independence, accuracy, relevance, integrity, timeliness and

professional standard of statistical information produced by the National Statistical Office;

- (h) to ensure the security and confidentiality of information collected under this Act;
- (i) to determine and exercise final responsibility for the discontinuance of statistical collection; and
- (j) to determine the pricing policy of statistical products and services supplied by the National Statistical Office.

(2) The Commissioner shall cause the statistics collected under this Act to be compiled, tabulated and analysed and, subject to this Act, may cause the statistics or abstracts thereof to be published and disseminated, with or without observations thereon, in such manner and by such medium as he may determine.

(3) The Commissioner shall have the sole responsibility of deciding the procedure and method to be employed in the provision of statistics and the extent, form and timing of publication and dissemination of any statistics produced or to be produced by the National Statistical Office.

(4) The Commissioner, as a coordinator of the National Statistical System, shall co-ordinate and monitor statistical activities in all Government ministries and departments, local authorities and statutory corporations in order to-

- (a) ensure that approved statistical standards and procedures are applied;
- (b) ensure that standard concepts, definitions and classifications are used to enhance harmonization and comparability of statistics; and
- (c) minimize unnecessary overlapping and duplication in the collection and publication of statistical information.

(5) The Commissioner may collaborate with Government ministries and departments in the collection, compilation, analysis, publication and dissemination of statistical information, including statistics derived from the activities of any ministry or department.

(6) The Commissioner shall ensure that common definitions for statistical purposes are used in respect of all official statistics collected or published by any Government ministry or department.

(7) The Commissioner shall have the mandate to declare any statistics official if he is satisfied with their quality.

Employment of assistants

6. For purposes of carrying out his duties under this Act, the Commissioner may employ public officers or other persons to assist in carrying out the purposes and provisions of this Act, and may authorize such officers or persons, by writing under his hand

or the hand of an officer of the National Statistical Office authorized by the Commissioner in that behalf, to perform such functions as may be required.

PART III-ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL
STATISTICAL SYSTEM

Establishment of
the National
Statistical System

7.- (1) There is hereby established the National Statistical System.

(2) The National Statistical System shall comprise the following-

(a) producers of statistics, including the National Statistical Office as the coordinating agency of the System, Government ministries and departments and public agencies;

(b) data users, including key users such as policy and decision makers;

(c) data suppliers, including establishments and households; and

(d) research and training institutions, including universities and colleges.

Functions of the
National Statistical
System

8. The National Statistical System shall have the following functions-

- (a) to raise public awareness about the importance and role of statistical information to society;
- (b) to collect, process, analyze and disseminate quality statistical data and information in a coordinated and timely manner;
- (c) to promote the use of best practices and international standards in statistical production, management and dissemination;
- (d) to promote the use of statistical data and information, particularly for evidence-based policy design, monitoring and evaluation and decision making; and
- (e) to build sustainable capacity for the production and use of statistical data and information in Malawi.

PART IV- STATISTICAL INFORMATION AND POWERS OF THE NATIONAL STATISTICAL OFFICE

Statistical
surveys by
public, private or
foreign
institutions

9.- (1) Any public, private or foreign institution wishing to conduct any statistical survey on a national scale shall first seek the approval of the Commissioner for the appropriateness of conducting such surveys and the methodology to be used.

(2) Where an institution has been granted the approval referred to in subsection (1), that institution shall, upon completion of the survey, provide the Commissioner with the datasets and copies of a report on the data collected.

Power to obtain particulars

10.- (1) The Commissioner may conduct a statistical inquiry or direct the conduct of a statistical inquiry relating to matters specified in the First Schedule, and may require such inquiry to be carried out using either census or sampling methods, or both.

(2) Where any statistical inquiry is being carried out in accordance with this Act, the Commissioner or any authorized officer may require any person to supply him with such particulars as may be prescribed, or such of those particulars as the Commissioner may consider necessary or desirable in relation to that particular inquiry.

(3) A person, on being required to give information under subsection (2), shall, to the best of his knowledge, information and belief, complete forms, make returns, answer questions and give all necessary information, in the manner and within the time prescribed or as the Commissioner may direct.

(4) An authorized officer acting in accordance with this section may require any person to supply him with particulars either by-

(a) interviewing that person; or

(b) leaving at or posting to that person's last known address, a form containing a notice requiring the form to be completed and returned in the manner and within the time specified in the notice.

(5) Unless the contrary is proved, the sending of the form as provided for in subsection (4) shall be deemed to be sufficient request by the authorized officer to the person concerned, and delivery shall be deemed to have been made at the time of leaving the form at the person's last known address, or at the time of normal delivery of post at the address, as the case may be.

Compilation of lists of respondents

11. For the purpose of compiling lists of respondents or respondents of a particular class, group or description, the Commissioner may, by notice published in the Gazette, or in a newspaper of wide circulation in Malawi, or in such other manner as might reasonably be expected to bring the notice to the attention of respondents' concerned, require the respondents to communicate with the Commissioner in a manner and within such time as may be specified in the notice.

Power of entry and inspection

12.- (1) The Commissioner or any authorized officer may, for any purpose connected with the collection of statistical information, enter and inspect any land, building or other premise, vehicle, vessel or aircraft, and may make such inquiries or observations as may be necessary for the collection of the information.

(2) The Commissioner or any authorized officer shall not enter and inspect the land, building or other premises, vehicle, vessel or aircraft without-

- (a) a warrant issued in terms of subsection (3);
or
- (b) the consent of a person who is competent to consent to the entry and inspection.

(3) A warrant referred to in subsection (2) (a) may be issued in chambers by a magistrate court, only if the court is satisfied, on the basis of information made available to the court on oath or affirmation, that there are reasonable grounds for believing that entry on and inspection of the land, building or other premises, vehicle, vessel or aircraft concerned is reasonably necessary for the purpose contemplated in subsection (1).

(4) A warrant issued in terms of subsection (3) shall remain in force until-

- (a) it is executed;
- (b) it is cancelled by the court that issued it;
- (c) the expiry of three (3) months from the date it was issued; or
- (d) the purpose for which the warrant was issued no longer exists,

whichever may occur first.

(5) An entry and inspection in terms of subsection (1) shall be carried out-

- (a) at any reasonable time during the day unless the carrying out thereof by night is justifiable and necessary; and
- (b) with strict regard to decency and order, including the protection of a person's right to dignity, freedom and privacy.

(6) The Commissioner or any authorized officer shall, immediately before carrying out an entry and inspection in terms of subsection (1)-

- (a) identify himself to the owner or person in control of the land, building or other premises, vehicle, vessel or aircraft, if such person is present;
- (b) if applicable, hand to that person a copy of the warrant or, if that person is not present, affix that warrant to a prominent place on the land, building or other premises, vehicle, vessel or aircraft; and
- (c) supply that person with particulars regarding his authority to carry out the entry and inspection.

Disclosure of information and confidentiality

13.- (1) Subject to subsection (2), no return or other information collected by the National Statistical Office for the purpose of official or other statistics that relates to-

- (a) a person;
- (b) a household;
- (c) a business; or
- (d) any other organisation

may be disclosed to any person.

(2) The return or other information contemplated in subsection (1) may, subject to the directions of the Commissioner, be disclosed-

- (a) to the Commissioner and officers concerned of the National Statistical Office who have taken the oath of secrecy referred to in section 17;
- (b) to the person from whom the return or other information was collected;
- (c) with the prior written consent of the person from whom the return or other information was collected, to his representative; or
- (d) where the information is already available to the public from an organ of state, business or other organization concerned.

(3) Notwithstanding the provisions of any other law, no return or other information collected in terms of this Act shall be admissible as evidence in any legal proceedings, except for purposes of prosecution under this Act.

(4) Nothing in this section shall prevent or restrict the disclosure or publication of any report, abstract or document without the consent referred to in subsection (2) (c) where the particulars contained in the report, abstract or document render identification possible merely by reason of the fact that they relate to an undertaking or business which is the only undertaking or business within its particular sphere of activities, or one of two such undertakings or businesses:

Provided that in no case shall the particulars render possible identification of the costs of production of, or of capital employed in, or profits arising from the undertakings or businesses.

(5) Notwithstanding the provisions of subsection (2) (c), the Commissioner may release unit records, with identifiers removed, if he-

- (a) is satisfied that the unit records so released will be used for research purposes only;
- (b) is satisfied that the application and analysis is the result of the user's independent processing of the data:
- (c) obtains from the recipient of the records a written undertaking that the records will not be released to any other person without the written consent of the Commissioner;

(d) obtains from the recipient a written undertaking to make available to the National Statistical Office a copy of the research findings; and

(d) is satisfied that the unit records cannot be identified as relating to any particular person or business enterprise.

Dissemination
of statistical
data

14. The Commissioner shall ensure that any statistical data collected, after appropriate processing and ascertaining its accuracy, and also after ensuring the confidentiality of any respondent who provided any statistical information, is released for general dissemination.

PART V- MISCELLANEOUS PROVISIONS

Relationship
with other
bodies

15.- (1) The National Statistical Office may, in the exercise of any other function under this Act, consult and coordinate with other bodies having duties related to, or having aims or objectives similar to those of the National Statistical Office.

(2) It shall be the duty of the bodies referred to in subsection (1) to cooperate with the National Statistical Office in the carrying out of its functions under this Act.

Offences and
Penalties

16.- (1) Any person employed in the performance of any function under this Act, who-

- (a) by virtue of such employment or function becomes possessed of information which might influence or affect the market value of any share or other security, interest, product or article and who before the information is made public, directly or indirectly uses it for personal gain;
- (b) without lawful authority, publishes or communicates to any person other than in the ordinary course of his employment any information acquired by him in the course of the employment or function; or
- (c) knowingly compiles or issues any false statistics or statistics information;

commits an offence and shall be liable upon conviction to a fine of five hundred thousand kwacha (K500, 000) and to imprisonment for two (2) years.

(2) Any person who, being in possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates such information to any other person, commits an offence and shall be liable upon conviction to a fine of five hundred thousand kwacha (K500,000) and to imprisonment for two (2) years.

(3) Any person who-

- (a) hinders or obstructs an authorized officer in the lawful performance of any function under this Act;
- (b) wilfully refuses or neglects-
 - (i) to complete and supply, within such time as may be specified for the purpose, the particulars required in any return, form or other document left with or sent to that person; or
 - (ii) to answer any question or inquiry put to or made of him under this Act; or
- (c) knowingly or negligently makes in any return, form or other document completed by him under this Act or in any answer to any question or inquiry put to or made of him under this Act, any statement which is untrue in any material way,

commits an offence and shall be liable upon conviction, to a fine of one hundred thousand kwacha (K100, 000) and to imprisonment for six (6) months.

(4) Where a person has been convicted under subsection 3 (b) or (c), the court convicting that person may, in addition to any other penalty imposed, order the person to-

- (a) complete and supply such particulars as may be required;
- (b) answer such question or inquiry; or
- (c) correct such untrue statement, within such time as the court may specify.

(5) Any person who-

- (a) falsely represents himself to be an authorized officer;
- (b) not being an authorized officer, purports to perform the functions of an authorized officer under this Act; or
- (c) fraudulently attempts to obtain information under this Act,

commits an offence and shall be liable upon conviction to a fine of five hundred thousand kwacha (K500, 000) and to imprisonment for two (2) years.

Oath or
Affirmation of
Office and Secrecy

17.- (1) Every person employed in the performance of any of the functions under this Act shall, before commencing such functions, take an Oath or Affirmation of Office and Secrecy, as the case may be, before a Commissioner for oaths, as prescribed in the Second Schedule.

(2) In the case of a person employed under section 6, it shall be sufficient if the person makes, in any language approved by the Commissioner, and delivers or transmits to the Commissioner for oaths, a written declaration in the same form substituting the words “do solemnly swear/affirm” with the word “declare”.

Code of Practice
for official
statistics

18.- (1) In order to establish and maintain public confidence in all official statistics and analyses, the Commissioner shall issue a Code of Practice, as may be amended from time to time, that sets out professional standards and ethics to be followed by all agencies producing official statistics.

(2) The Code of Practice shall be published in the Gazette.

Special reports
and
investigations

19. The Commissioner may, at his discretion and at the request of any person and upon payment of such fee as the Commissioner may specify or as may be prescribed, supply to such person any special information or report concerning, or carry out for such person any special investigation into, any of the matters specified in the First Schedule.

Regulations

20.- (1) The Minister may make regulations for the better carrying out of this Act.

(2) Without derogating from the generality of subsection (1), the Minister may make regulations prescribing-

- (a) the particulars to be furnished in relation to any matter in respect of which statistical information may be collected under this Act;
- (b) the manner and form in which the times and places at which and the persons by whom such particulars and information shall be furnished; and
- (c) penalties in respect of any contravention of this Act or regulations made thereunder.

Amendment of
schedules

21. The Minister may, by Order published in the Gazette, amend the schedules.

Repeal and
Savings
Cap. 27:01

22. - (1) The Statistics Act is hereby repealed.

(2) Any subsidiary legislation made under the Act 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, repealed or amended by subsidiary legislation made under this Act.

Matters concerning which statistical information may be collected, compiled, analysed, abstracted and published shall include the following:

1. Population.
2. Vital occurrences and morbidity
3. Immigration and emigration
4. Housing
5. Rents
6. Real property
7. Land tenure and the occupation and use of land
8. Finance
9. External finance and balance of payments
10. Capital investment
11. Savings
12. Income, earnings, profits and interest
13. Personal expenditure and consumption
14. External trade
15. Banking and insurance
16. Wholesale and retail trade, including agents and brokers
17. Manufacturing, building, construction and allied industries
18. Mining and quarrying, including the prospecting of metallic, non-metallic, petroleum and natural gaseous products
19. Agriculture, including animal husbandry, horticulture and allied industries
20. Forestry and logging
21. Hunting and fishing
22. Stocks of manufactured and unmanufactured goods
23. Wholesale and retail prices of commodities
24. Storage and warehousing
25. Employment and unemployment

26. Salaries, wages, bonuses, fees, allowances and other payments and honoraria for services rendered
27. Industrial disturbances and disputes
28. Injuries, accidents and compensation
29. Fuel and power
30. Water undertakings and sanitary services
31. Transport and communications
32. Local government
33. Community, business, recreation and personal services
34. Handicrafts and rural industries
35. Sweepstakes, lotteries, charitable and other public collections of money
36. Education
37. Health
38. Environment
39. Gender
40. HIV/AIDS
41. Transport
42. Communication
43. Information, Communication and Technology

OATH OR AFFIRMATION OF OFFICE AND SECRECY

I,.....
do solemnly swear/affirm that I shall faithfully and honestly fulfil my duties
as.....
in conformity with the requirements of the National Statistics Act and the
regulations made thereunder, and that I shall not, without due authority, reveal any
information acquired by virtue of my said duties, or, until such information is made
public, directly or indirectly, use it for personal gain.

Made this _____ day of _____, 20__

Signature

Before me:

COMMISSIONER FOR OATHS

OBJECTS AND REASONS

The object of this Act is to repeal the Statistics Act, and to make provision for the better collection, compilation, analysis, publication and dissemination of statistical information.

R. KASAMBARA, SC
Attorney General