

CHAPTER 50:03
LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY)
ARRANGEMENT OF SECTIONS
SECTION

PART I
PRELIMINARY

1. Short title
2. Application
3. Act not to apply to exploration of liquid fuels and gas
4. Interpretation

PART II
GENERAL PRINCIPLES

5. Objectives
6. Activities in chain of supply open to any person

PART III
FUNCTIONS OF THE MINISTER

7. Functions of the Minister

PART IV
LIQUID FUELS AND GAS PRODUCTION LICENCE

8. Obligation to obtain a production licence
9. Production activities to be licensed
10. Application for a production licence
11. Application fees and expenses
12. Approval of applications
13. Validity of production licence
14. Assignment of production licence
15. Suspension, revocation or termination of production licence

PART V
LIQUID FUELS AND GAS CONSTRUCTION AND OPERATING LICENCES

16. Obligation to obtain a licence
17. Activities to be licensed
18. Application for a licence
19. Application fees and expenses
20. Approval of applications
21. Validity of licences
22. Assignment of licences
23. Suspension, revocation or termination of licences

PART VI
OBLIGATIONS OF THE HOLDERS OF LICENCES

24. Compliance with laws, regulations, standards and specifications

25. Inspection and information
26. Minister to establish minimum stock requirements
27. National Liquid Fuels and Gas Information System
28. Reports and information to be submitted
29. Central Registry of Liquid Fuels and Gas Operations

PART VII

ASSURANCE OF FAIR COMPETITION

30. Prohibition against activities contrary to principles of fair competition
31. Negotiated access to unused capacities of third party facilities

PART VIII

PROTECTION OF OCCUPATIONAL SAFETY, HEALTH AND WELFARE, PUBLIC SAFETY, PUBLIC HEALTH AND THE ENVIRONMENT

32. Adoption and adaptation of international standards and specifications
33. Environmental impact studies

PART IX

NATIONAL LIQUID FUELS AND GAS EMERGENCY PLAN AND STRATEGIC FUEL RESERVE STORAGE

34. National Liquid Fuels and Gas Emergency Plan
35. Strategic Fuel Reserve Storage

PART X

PRODUCT PRICES, TAXES AND LEVIES

36. Approval of prices
37. Advisory committees
38. Levies

PART XI

MEDIATION AND APPEALS

39. Non-binding mediation by the Authority
40. Appeal to the High Court

PART XII

OFFENCES AND PENALTIES

41. Offences
42. Penalties
43. Joint liability
44. Initiation of actions by consumers

PART XIII

MISCELLANEOUS PROVISIONS

45. Rehabilitation of area damaged by operations
46. Regulations
47. By-laws

48. Transitory regime for licences
49. Repeal and savings

Schedule

23 of 2004

G.N. 40/2007

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

[28TH DECEMBER 2007]

PART I

PRELIMINARY

[Ch5003s1]1. Short title

This Act may be cited as the Liquid Fuels and Gas (Production and Supply) Act.

[Ch5003s2]2. Application

(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.

(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 Force, all public corporations and all corporations under the Companies Act, subject to specific exemption for military and other entities for reasons of national security as may be authorized by the Minister by notice published in the Gazette. Cap. 46:03

[Ch5003s3]3. Act not to apply to exploration of oil and gas

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 Exploration Act. Cap. 61:01

[Ch5003s4]4. Interpretation

In this Act, unless the context otherwise requires—

“Authority” means the Malawi Energy Regulatory Authority established under section 3 of the Energy Regulation Act; Cap. 73:02

“chain of supply” means all operations, activities, installation equipment and other facilities, directly or indirectly, related to liquid fuels and gas supply operations;

“commercial storage” means liquid fuels and gas storage held by a licensee for his day to day commercial operations;

“consumer” has the meaning assigned thereto in the Consumer Protection Act; Cap. 48:10

“Energy Laws” has the meaning ascribed thereto in the Energy Regulations Act; Cap. 73:02

“exploration area” has the meaning assigned thereto in the Petroleum Exploration Act; Cap. 61:01

“franchising” means an agreement between a licensee and a retail dealer under which the retail dealer is permitted to retail liquid fuels and gas under a designated business name;

“importation” means buying liquid fuels and gas from a source outside Malawi by a licensee;

“international haulage” means transportation of liquid fuels and gas into Malawi delivered at designated storage facilities of a licensee holding a storage licence;

“internal distribution” means transportation of liquid fuel and gas within Malawi from storage facilities to wholesale and retail outlets;

“licence” means a licence issued by the Authority under this Act;

“licensee” means the holder of a licence under this Act;

“liquid fuels and gas” means organic compounds, pure or blended, which are derived from the refining or processing of crude oils or mixes of crude oils, or refined from plant organic materials including—

- (a) asphalts, bitumens, coke and other residual products;
- (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 such as methane, ethane, propane, butane, LPG and other similar gases or mixture of these gases whether in gaseous or liquefied state;
- (d) gas, oil 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 such as base oils and 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 operation” means any operation or installation and activities for or in connexion 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; and

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

PART II

GENERAL PRINCIPLES

[Ch5003s5]5. Objectives

The objectives of this Act are to—

- (a) ensure 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) ensure 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.

[Ch5003s6]6. Activities in chain of supply open to any person

(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 any other applicable written law.

(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

[Ch5003s7]7. Functions of the Minister

The Minister, or any person to whom the functions referred to in this section may 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 ensure 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 Reserve 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 any other applicable written laws.

PART IV

LIQUID FUELS AND GAS PRODUCTION LICENCE

[Ch5003s8]8. Obligation to obtain a production licence

(1) No person shall carry out production activities referred to in section 9 without having obtained a production licence in accordance with the provisions of this Act.

(2) Any person who fails to comply with subsection (1) shall be guilty of an offence.

[Ch5003s9]9. Production activities to be licensed

The following production activities shall be licensed 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.

[Ch5003s10]10. Application for a production licence

(1) An application for a 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 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, an applicant, shall obtain the necessary environmental authorization, and prepare and file an environmental management plan or an environmental impact study as a condition for obtaining a production licence under this section.

[Ch5003s11]11. Application fees and expenses

(1) The Authority may employ experts for the purpose of evaluating an application for licence under section 10, and the Authority shall pay for the services of such experts.

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

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

[Ch5003s12]12. Approval of applications

(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 an 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; and 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 from the Authority confirming the granting, renewal or assignment of the production licence as applied for.

[Ch5003s13]13. Validity of production licences

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

[Ch5003s14]14. Assignment of production licence

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.

[Ch5003s15]15. Suspension, revocation or termination of production licence

Notwithstanding any other remedies or penalties for offences provided for under this Act or any other written law—

(a) a production licence may be suspended by the Authority in case of contravention 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 Energy Laws;

(b) a production licence may be revoked by the Authority 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 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.

PART V

LIQUID FUELS AND GAS CONSTRUCTION AND OPERATING LICENCES

[Ch5003s16]16. Obligation to obtain a licence

(1) No person shall carry out the construction or modification of installations and facilities of the chain of supply mentioned in section 17 without having obtained a licence in accordance with the provisions of this Act.

(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.

(3) Any person who fails to comply with subsection (1) or subsection (2) shall be guilty of an offence.

[Ch5003s17]17. Activities to be licensed

The following activities in the chain of supply shall be licensed by the Authority—

- (a) the importation of liquid fuels and gas;
- (b) the wholesaling of liquid fuels and gas;
- (c) the storage of liquid fuels and gas;
- (d) the transportation of liquid fuels and gas; and
- (e) the retailing of liquid fuels and gas.

[Ch5003s18]18. Application for a licence

(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.

[Ch5003s19]19. Application fees and expenses

(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 the renewal or assignment of a licence shall pay an application fee to the Authority.

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

[Ch5003s20]20. Approval of applications

(1) The Authority shall, after due evaluation of an 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 licence, and if an 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 within fourteen days from the receipt of such notice, the Authority shall review the application and notify the applicant of its decision to approve or reject the application, and 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 licence as applied for.

[Ch5003s21]21. Validity of licences

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

[Ch5003s22]22. Assignment of licences

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.

[Ch5003s23]23. Suspension, revocation or termination of licences

Notwithstanding any other remedies or penalties for offences provided for under this Act or any other written law—

(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 Energy Laws;

(b) a licence may be revoked by the Authority 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 LICENCES

[Ch5003s24]24. Compliance with laws, regulations, standards and specifications

All licensees and all persons working under the direction of, licensees, 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, health, welfare, public safety, public health and the environment and with all other applicable written laws.

[Ch5003s25]25. Inspection and information

(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 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.

[Ch5003s26]26. Minister to establish minimum stock requirements

(1) In order to assure the security and continuity of the liquid fuels and gas supply of the country, the Minister, on the recommendation of the Authority, may require that all or certain groups of licensees, including industrial consumers buying for wholesale distributors, 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.

[Ch5003s27]27. National Liquid Fuels and Gas Information System

(1) 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 reason as defined by the Authority in its discretion.

[Ch5003s28]28. Reports and information to be submitted

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.

[Ch5003s29]29. Central Registry of Liquid Fuels and Gas Operations

(1) The Authority shall establish and maintain the Central 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 licensees and their operations and installations.

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

PART VII

ASSURANCE OF FAIR COMPETITION

[Ch5003s30]30. Prohibition against activities contrary to principles of fair competition

(1) All liquid fuels and gas operations shall be subject to the provisions of any other written law which prohibits anti-competitive trade practices and regulates and monitors 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.

[Ch5003s31]31. Negotiated access to unused capacities of third party facilities

(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 agreement 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

[Ch5003s32]32. Adoption and adaptation of international standards and specifications

(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.

[Ch5003s33]33. Environmental impact studies

(1) The Authority, in coordination with the competent environmental authorities, shall establish the classification of liquid fuels and gas supply operation 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 the provisions of any written law 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

[Ch5003s34]34. National Liquid Fuels and Gas Emergency Plan

(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 develop 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 by the Minister and published 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 National Liquid Fuels and Gas Emergency Plan.

[Ch5003s35]35. Strategic Fuel Reserve Storage

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

PART X

PRODUCT PRICES, TAXES AND LEVIES

[Ch5003s36]36. Approval of prices

(1) The price band for liquid fuels and gas products throughout the chain of supply shall be subject to approval 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 prescribed by regulations.

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

[Ch5003s37]37. Advisory committees

(1) In addition to any advisory committee that the Authority may establish under section 16 of the Energy Regulations Act, the Authority shall establish the following committees— Cap. 73:02

(a) Liquid Fuels and Gas Pricing Advisory Committee; 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.

[Ch5003s38]38. Levies

(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 subsection (1) shall be collected and disbursed to the relevant institutions by the Authority.

PART XI

MEDIATION AND APPEALS

[Ch5003s39]39. Mediation by the Authority

(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. Cap. 73:02

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

[Ch5003s40]40. Appeal to the High Court

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

PART XII

OFFENCES AND PENALTIES

[Ch5003s41]41. Offences

Any person commits an offence who—

(a) refuses, delays or fails to produce any document or other information relating to liquid fuels and gas production and supply operations and installations which may be required to be produced under this Act;

(b) knowingly or without reasonable grounds for believing the same to be true furnishes any document or other information which is false or misleading in any material aspect whether upon demand or otherwise;

(c) publishes or otherwise discloses any information in contravention 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.

[Ch5003s42]42. Penalties

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

[Ch5003s43]43. Joint liability

(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 licensee 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.

[Ch5003s44]44. Initiation of actions by consumers

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 the acts or omissions of the Authority in response to such complaint.

PART XIII

MISCELLANEOUS PROVISIONS

[Ch5003s45]45. Rehabilitation of area damaged by operations

(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 condition is to be included in a licence pursuant to subsection (1), the Authority may require the licensee to lodge with 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.

[Ch5003s46]46. Regulations

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.

[Ch5003s47]47. By-laws

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.

[Ch5003s48]48. Transitory regime for licences

(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 licensed or not under any other applicable legislation, shall 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.

[Ch5003s49]49. Repeal and savings

(1) The following Acts are repealed—

- (a) the Petroleum Control Commission Act; and Cap. 50:08
- (b) the Petroleum Act. Cap. 50:03

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

(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. Cap. 14:02

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

SUBSIDIARY LEGISLATION
LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) REGULATIONS
ARRANGEMENT OF REGULATIONS
REGULATION

PART I

PRELIMINARY PROVISIONS

1. Citation
2. Interpretation
3. Objectives

PART II

LICENSING

Division 1—General Provisions

4. Application of this Part
5. Prohibition of unlawful activities
6. Requirement for licensing
7. Application fees for licence
8. Acknowledgement of application
9. Consideration of applications
10. Licences
11. Suspension or revocation of licences
12. Licence fees

Division 2—Production Licence

13. Application for a Production Licence
14. Form of application for a Production Licence
15. Expenses of Authority in processing a Production Licence
16. Validity of a Production Licence
17. Application for renewal of a Production Licence and Fees

Division 3—Importation Licence

18. Application for an Importation Licence
19. Form of application for an Importation Licence
20. Expenses of Authority in processing an Importation Licence
21. Validity of an Importation Licence
22. Application for renewal of an Importation Licence and Fees

Division 4—Transportation Licence

23. Application for a Transportation Licence
24. Form of Application for a Transportation Licence
25. Validity of a Transportation Licence
26. Application for renewal of a Transportation Licence and Fees

Division 5—Storage Licence

27. Application for a Storage Licence
28. Form of application for a Storage Licence
29. Validity of a Storage Licence
30. Application for renewal of a Storage Licence and Fees

Division 6—Wholesale Licence

31. Application for a Wholesale Licence
32. Form of application for a Wholesale Licence
33. Validity of a Wholesale Licence
34. Application for renewal of a Wholesale Licence and Fees

Division 7—Retail Licence

35. Application for a Retail Licence
36. Form of Application for a Retail Licence
37. Validity and renewal of a Retail Licence
38. Application for renewal of a Retail Licence and Fees
39. Standards for construction and maintenance of retail fuel outlets

Division 8—Prohibition of Exportation of Liquid Fuels and Gas

40. Prohibition of exportation of liquid fuels and gas

PART III

LIQUID FUELS AND GAS PRICING

Division 1—General Provisions

41. Maximum soiling price
42. Approval of maximum prices
43. Review and revision of price build-up
44. Average IBLC
45. Publication of routeshares

Division 2—Pricing of Petrol, Diesel, Paraffin and Aviation Fuels

46. Determination of maximum prices
47. Determination of FOB
48. Mode of transporting fuel into Malawi
49. Determination of maximum transport costs
50. Determination of GIT
51. Determination of handling charges
52. Normal fuel loss
53. Recoverable fuel loss

Division 3—Pricing of Bio-Fuels and Gas

54. Pricing of bio-fuels and gas
55. Determination of bio-fuels prices
56. Determination of gas prices
57. Personal attendance

- Division 4—Offences and Penalties
58. Offences and Penalties

PART IV
STANDARD SPECIFICATIONS

- Division 1—Application of this Part
59. Application of this Part

Division 2—Petrol Standard Specifications

- 60. Approved petrol
- 61. Composition of petrol
- 62. Compliance with petrol standard specifications
- 63. Marking and labelling on petrol pumps and containers
- 64. Testing petrol for compliance
- 65. Construction of sampling cans
- 66. Preparation for use of sampling cans
- 67. Mode of sample collection
- 68. No sample collection in direct sunlight
- 69. Storage, labelling and transportation of samples

Division 3—Diesel Standard Specifications

- 70. Approved diesel
- 71. Composition of diesel
- 72. Compliance with diesel standard specifications
- 73. Prohibition against contaminants
- 74. Grades of diesel and their composition
- 75. Approved diesel storage stability
- 76. Marking and labelling of diesel pumps, tanks and containers
- 77. Testing diesel for compliance

Division 4—Paraffin Standard Specifications

- 78. Use of paraffin
- 79. Composition of paraffin
- 80. Compliance with paraffin specifications
- 81. Approved smoke point
- 82. Approved net specific energy and testing
- 83. Approved burning qualities
- 84. Approved paraffin storage stability
- 85. Storage and transportation of paraffin
- 86. Marking and labelling of paraffin pumps, tanks and containers
- 87. Compliance procedures for paraffin

Division 5—Other Fuel and Gas Standard Specifications

- 88. Approved standard specifications for other fuels and gas
- 89. Testing procedures for compliance

90. Storage and transportation of ethanol and gas

Division 6—Offences and Penalties

91. Offences and penalties

PART V

STORAGE OF LIQUID FUEL AND GAS

Division 1—Preliminary Provisions

92. Application of this Part

Division 2—Preparation, Construction and Maintenance of Storage Facilities

93. Storage tanks for liquid fuels

94. Storage sheds

95. Storage of gas

Division 3—Management of Storage Area

96. Conditions for management and control of storage area

97. Prohibition against dispensing of liquid fuels

98. Prohibition against soldering

Division 4—Miscellaneous Provisions

99. Storage of liquid fuels in buildings

100. Storage in machinery or motor vehicles

101. Reporting accidents

PART VI

THIRD PARTY STORAGE CAPACITY ACCESS CONTRACTS

Division 1—Preliminary Provisions

102. Application of this Part

Division 2—General Provisions

103. Third party capacity storage access contract

104. Approval by the Authority

105. Compliance

106. Disclosure

Division 3—Eligibility and Minimum Terms

107. Eligibility

108. Minimum terms and conditions

109. Other terms and conditions

Division 4—Submission and Approval

110. Submission to the Authority

111. Corrections and resubmissions

112. Mediation

PART VII

MINIMUM STOCKS AND STRATEGIC STORAGE RESERVES

Division 1—Application of this Part

113. Application of this Part

Division 2—Minimum Stocks

114. Minimum stocks
115. Determinative factors
116. Strategic fuel reserve storage
117. Commercial storage rationalization rules
118. Coastal facilities
119. Direct fuel importation
120. Wholesaler's obligations

Division 3—Determination of Minimum Stocks

121. Determination and publication
122. Maximum and idle storage capacity

PART VIII

EMERGENCY PLAN

Division 1—Application of this Part

123. Application of this Part

Division 2—General Provisions

124. Declaration of liquid fuel emergency
125. Authority's mandate in an emergency
126. Consultations
127. Suspension or revocation of declaration of liquid emergency

Division 3—National Liquid Fuels and Gas Emergency Plan

128. National Liquid Fuels and Gas Emergency Plan
129. Guiding principles and factors
130. Corrective measures
131. Inspection

PART IX

MISCELLANEOUS PROVISIONS

132. Provision of information
133. General offence and penalties

Schedules

- First Schedule — Forms
- Second Schedule — Licences
- Third Schedule — Licence Fees
- Fourth Schedule — Standard Specifications

Firth Schedule — Preparation, Construction and Maintenance of Storage Facilities

G.N. 4/2009

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) REGULATIONS

under s. 46

PART I

PRELIMINARY PROVISIONS

1. Citation

These Regulations may be cited as the Liquid Fuels and Gas (Production and Supply) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“additive” means a chemical compound added to petrol, diesel or illumination paraffin to improve either its performance or storage stability or both;

“Automatic Pricing Mechanism” or “APM” means the automatic mechanism for the determination of liquid fuels and gas prices provided for under these Regulations;

“ASTM method” means a test method published by the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103, USA;

“batch” means a quantity of premium or blended petrol in a single consignment blended or processed at one given time;

“defective” means any container or contents therein which fails in one or more respects to comply with these Regulations;

“emergency” means any accident, natural disaster, negligence or willful misconduct, civil strife, rioting or state of war or state of national emergency that has profound effect on the supply or availability of liquid fuels and gas in Malawi;

“final boiling point” means the maximum temperature reading noted during the final phase of a distillation carried out under standardized conditions;

“flash point” means the minimum temperature to which a product must be heated for the vapours emitted to ignite momentarily in the presence of a flame when operating under standardized conditions;

“free on board” or “f.o.b.” means the premium agreed upon between an importer and supplier of liquid fuels and gas plus the monthly average price of the product on the international market;

“Goods In-Transit” or “GIT” means the insurance cover provided for goods in transit;

“handling charges” means all clearing charges of liquid fuels and gas at the border plus road transport broker’s commissions;

“idle storage capacity” means any storage capacity which is available on any storage facility and is currently not in use and the licensee does not intend to put it to any use in the next six months or more;

“In-bond landed costs” or “IBLC” means the cost of landing fuel in Malawi;

“Inspector” means any person appointed or authorized as such by the Authority;

“IP method” means a test method published by the Institute of Petroleum, 61 New Cavendish Street, London W1M 8AR, England;

“IP Scale” means the scale from 0.5 (lightest) to 8 (darkest) applied to automotive, domestic, commercial, industrial and marine middle distillates of paraffin;

“lot” means a quantity of diesel fuel in one storage or transit tank or any number of drums containing diesel fuels and marked with the same brand name or trademark from one manufacturer, submitted at any one time for inspection and testing;

“MBS” means Malawi Bureau of Standards;

“minimum stocks” means the smallest amount of liquid fuels or gas that a licensee shall be required to keep in stock at all material times;

“octane number” means the number on a conventional scale, expressing the antiknock value of a fuel for spark ignition engines expressed as the percentage of iso-octane in a mixture of n-heptane with the iso-octane having the same antiknock quality as the fuel in question;

“Price stabilization Fund” or “PSI” means a fund managed by the Malawi Energy Regulator Authority to cater for IBLC fluctuations of at least 5%;

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

“Saybolt Scale” means the scale from +30 (lightest) to -16 (darkest) applied generally to domestic and aviation kerosenes.

“storage area” means any area within Malawi where liquid fuel or gas is stored;

“storage shed” means a shed constructed for purposes of storing liquid fuels;

“storage tank” means any tank used for the storage of liquid fuels in bulk;

“the Government” means the ministry responsible for energy affairs in Malawi;

“third party storage capacity access” means any written agreement by virtue of which one licensee can use another licensee’s idle storage capacity for storing liquid fuels or gas;

“transport costs,” means the cost of transporting fuel into Malawi either by rail or road or any other means approved by the Authority.

3. Objectives

The objectives of these Regulations are—

- (a) to regulate the production, importation, transportation and sale of liquid fuels and gas and to license certain related activities;
- (b) to regulate prices of liquid fuels and gas and set minimum standards to be complied with by licensees;
- (c) to set up measures which would ensure continuous availability and reliable supply of fuel in Malawi at all material times;
- (d) to set out minimum stocks of liquid fuels and gas storage in Malawi;
- (e) to ensure optimum and efficient use of liquid fuels and gas storage capacity in Malawi;
- (f) to encourage positive interaction and partnerships between licensees in the liquid fuels and gas industry;
- (g) to encourage fair competition between various licensees in the liquid fuels and gas industry;
- (h) to create an enabling environment for private sector involvement and participation in the liquid fuels and gas industry; and
- (i) to provide for procedures for the declaration of liquid fuels and gas emergency in Malawi.

PART II LICENSING

Division 1—General Provisions

4. Application of this Part

This Part shall apply to all matters relating to the application, processing, granting and enforcement of licences in respect of production, importation, transportation, wholesaling, storage and retailing of all liquid fuels and gas.

5. Prohibition of unlawful activities

No person shall carry on the business of producing, processing, importing, transporting, storing, wholesaling or retailing of any liquid fuel or gas without having in his possession a valid and requisite licence issued to him by the Authority under these Regulations:

Provided that a licensee who has applied for the renewal of his licence shall continue carrying out the activity for which he was licensed pending the determination of the application.

6. Requirement for licensing

Any person who wishes to carry on any of the business activities stated in regulation 4 shall apply to the Authority for the licence in the manner prescribed under these Regulations.

7. Application fees for licence

An application for a licence under these Regulations shall be made in the form prescribed in the First Schedule hereto and shall be accompanied by the application fees prescribed in the Third Schedule hereto.

8. Acknowledgement of application

Upon receipt of an application for any of the licences under these Regulations, the Authority shall acknowledge receipt of the same in writing to the applicant within thirty days from the date of receipt.

9. Consideration of applications

(1) The Authority shall consider each application for a licence under these Regulations and determine whether to grant or refuse to grant a licence.

(2) The Authority shall, upon making a decision on the application, communicate its decision to the applicant.

(3) Where the Authority refuses to grant the application for licence by any applicant, it shall, within thirty days furnish the applicant with reasons in writing for its refusal.

(4) Any applicant whose application for licence has been refused may appeal against any such decision in accordance with the Energy Regulation Act. Cap. 73:02

10. Licences

(1) Every licence issued by the Authority shall be in the form prescribed in the Second Schedule hereto and shall be valid on the conditions and for the period provided therein.

(2) Every licence issued under these Regulations shall have the following details—

- (a) name and type of the licence;
- (b) name and particulars of the licensee;
- (c) commencement and expiry date;

- (d) emblem or logo of the Authority;
- (e) designated signature of the Authority;
- (f) any such security features as the Authority may determine; and
- (g) the common seal of the Authority.

11. Suspension or revocation of licences

(1) The Authority may suspend or revoke any licence at any time if it is satisfied that the licensee or any person in his employ has contravened any of the provisions of a licence granted to the licensee, or these Regulations or any other law applicable to liquid fuels and gas in Malawi.

(2) Before revoking any licence, the Authority shall endeavour to give the licensee an opportunity to remedy his breach within a reasonable period of time.

12. Licence fees

(1) Upon the grant of a licence, an applicant shall pay the licence fee prescribed in the Third Schedule hereto.

(2) Every licensee shall annually pay a licence renewal fee specified in the Third Schedule hereto for the entire duration within which the licence subsists.

(3) Licence renewal fees shall become payable on the last working day of the twelfth month immediately preceding the date any such payment was last made or the date on which the licence was last issued, as the case may be.

Division 2—Production Licence

13. Application for a Production Licence

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.

14. Form of application for a Production Licence

(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 furnished by the applicant—

(a) a five 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 production, as the case may be;

(b) a five 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 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;

(f) a proposal on how the applicant shall comply with the Occupational Safety, Health and Welfare Act; Cap. 55:07

(g) a proposal on how the applicant shall comply with the Environment Management Act; Cap. 60:02

(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 scaleplan of storage construction and approved building plans of storage tanks and depot equipment by MBS 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.

15. Expenses of Authority in processing a Production Licence

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.

16. Validity of a Production Licence

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

17. Application for renewal of a Production Licence and Fees

(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.

(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. Cap. 55:07, Cap. 60:02

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

Division 3—Importation Licence

18. Application for an Importation Licence

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.

19. Form of Application for an Importation Licence

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

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

(a) a five 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 five 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 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;
- (f) a certificate of compliance with the Occupational Safety, Health and Welfare Act; Cap. 55:07
- (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 MBS 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.

20. Expenses of Authority in processing an Importation Licence

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.

21. Validity of an Importation Licence

An Importation Licence shall be valid for a period of twelve calendar months from the date of issue.

22. Application for renewal of an Importation Licence and fees

(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 compliance with the Occupational Safety, Health and Welfare Act and a certificate of compliance with the Environment Management Act. Cap. 55:07, Cap. 60:02

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

Division 4—Transportation Licence

23. Application for a Transportation Licence

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.

24. Form of application for a Transportation Licence

(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 furnished by the applicant—

(a) a projected business plan covering a period of one year, 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 proposed investment plan covering a period of one 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 recognized by the Laws of Malawi, or the laws of the country where any such applicant is registered, such as a constitution or trust deed;

(e) a certificate of compliance with the Occupational Safety, Health and Welfare Act; Cap. 55:07

(f) proof that its motor vehicles to be used in the transportation business shall comply with the Road Traffic Act; and Cap. 69:01

(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.

(h) 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 local commercial bank and one reputable international bank.

25. Validity of a Transportation Licence

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

26. Application for renewal of a Transportation Licence and Fees

(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. Cap. 55:07, Cap. 60:02

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

Division 5—Storage Licence

27. Application for a Storage Licence

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

28. Form of application for a Storage Licence

(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 furnished by the applicant—

(a) a three 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 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;

(d) the 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;

(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; Cap. 60:02

(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 MBS 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.

29. Validity of a Storage Licence

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

30. Application for renewal of a Storage Licence and Fees

(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.

(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. Cap. 55:07, Cap. 60:02

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

Division 6—Wholesale Licence

31. Application for a Wholesale Licence

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.

32. Form of application for a Wholesale Licence

(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 furnished by the applicant—

(a) a three 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 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 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;

(f) a proposal on how the applicant shall comply with the Environment Management Act; Cap. 60:02

(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 MBS 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.

33. Validity of a Wholesale Licence

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

34. Application for renewal of a Wholesale Licence and Fees

(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. Cap. 55:07, Cap. 60:02

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

Division 7—Retail Licence

35. Application for a Retail Licence

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.

36. Form of application for a Retail Licence

(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 furnished by the applicant—

(a) a three 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 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 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;

(f) a proposal on how the applicant shall comply with the Environment Management Act; Cap. 60:02

(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 MBS and the Inspector of Factories; and

(i) a letter of reference for credit worthiness from at least one commercial bank in Malawi.

37. Validity and renewal of a Retail Licence

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

38. Application for renewal of a Retail Licence and Fees

(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.

(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. Cap. 55:07, Cap. 60:02

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

39. Standards for construction and maintenance of retail fuel outlets

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 8—Prohibition of Exportation of Liquid Fuels and Gas

40. Prohibition of exportation of liquid fuels and gas

(1) No person shall export petrol, diesel, paraffin, aviation fuels or gas from Malawi.

(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 months.

PART III

LIQUID FUELS AND GAS PRICING

Division 1—General Provisions

41. Maximum selling price

No person shall sell liquid fuels or gas to any other person or persons at a higher price than the maximum selling price of any such product as approved by the Authority.

42. Approval of maximum prices

The Authority shall approve all maximum price adjustments of liquid fuels and gas at all levels of the chain of supply on recommendation from the Liquid Fuels and Gas Pricing Advisory Committee.

43. Review and revision of price build-up

The Authority shall, in a transparent, verifiable and accountable manner, conduct and publish in the Gazette, monthly reviews and revisions of liquid fuels and gas price build-up.

44. Average IBLC

For the purposes of maintaining uniform maximum liquid fuels and gas prices in Malawi, the Authority shall use average IBLC determined by weighing the route shares based on the proportions of the amount of liquid fuels and gas each route brings into Malawi.

45. Publication of routeshares

The Authority shall publish in the Gazette, the weights attached to each route each time there is a change in the same.

Division 2—Pricing of Petrol, Diesel, Paraffin and Aviation Fuel

46. Determination of maximum prices

(1) In determining the maximum price of petrol, diesel, paraffin, aviation fuels and gas, the Authority shall take into account the following factors—

- (a) the value of the product in the reference spot market plus the supplier's ex-tax margins;
- (b) the cost of haulage from the ports of discharge into Malawi, inclusive of the inland shipping;
- (c) the weighted cost of storage;
- (d) the sum of weighted costs for actual handling, depot through put, goods in transit insurance and transit losses;
- (e) Government taxes and levies imposed on importation, transportation or sale of the product; and
- (f) the licensee's approved mark-up.

(2) The price of petrol, diesel, paraffin and aviation fuel shall be adjusted upwards or downwards automatically, if there is an increase or decrease in the IBLC of the product of more than five per centum (5%) from the date of the last price adjustment:

Provided that in the event that the global prices and resultant f.o.b. prices are unstable and the Automatic Pricing Mechanism (APM) results in or is likely to result in severe local pump price volatility, the Authority may at its discretion suspend the APM in favour of a targeted approach as defined from time to time.

47. Determination of f.o.b.

In determining the f.o.b., the Authority shall take into account the premium agreed upon between the importer and the supplier plus the monthly average price of the product on the international market converted into Malawi Kwacha at the particular day's rate of foreign exchange.

48. Mode of transporting fuel into Malawi

Petrol, diesel, paraffin and aviation fuel and gas may, ordinarily be transported into Malawi either by road or rail or the combination of the two:

Provided that the Authority may determine other alternative modes of transporting petrol, diesel, paraffin, aviation fuel and gas where circumstances so require.

49. Determination of maximum transport costs

The Authority shall determine the maximum unit cost of transporting petrol, diesel, paraffin, aviation fuel and gas into Malawi either by road or rail through the use of average weighted transportation rates.

50. Determination of GIT

The GIT cost shall be an agreed percentage of all the cost elements that form the IBLC, plus an estimated cost that may cover duty and excise in the event of loss of the product after crossing the border into Malawi.

51. Determination of handling charge

The Authority shall approve all handling charges in respect of clearance of petrol, diesel, paraffin, aviation fuel and gas as well as any commissions charged thereon.

52. Normal fuel loss

For the purposes of these Regulations, any in-transit loss or storage loss of petrol, diesel, paraffin, aviation fuels or gas of not more than nought point five per centum (0.5%) shall be deemed to be normal loss.

53. Recoverable fuel loss

No licensee shall recover from the consumer any in-transit or storage fuel losses above the normal loss incurred in the course of transporting petrol, diesel, paraffin, aviation fuels or gas into or within Malawi or through the storage of the same.

Division 3—Pricing of Bio-Fuels and Gas

54. Pricing of bio-fuels and gas

The Authority shall, at the request of any licensee dealing with bio-fuels or gas, approve maximum prices of bio-fuels and gas on the recommendation of the Liquid Fuels and Gas Pricing Advisory Committee.

55. Determination of bio-fuel prices

(1) In determining the price for bio-fuels, the Authority shall take into account the following factors—

- (a) the cost of production;
- (b) the cost of transportation and distribution from the place of production to the place of sale;
- (c) the weighted cost of storage;
- (d) the cost of goods in-transit insurance and transit losses;
- (e) Government taxes and levies on the sale of the product; and
- (f) the licensee's approved mark-up.

(2) The Authority, may in its discretion, take any other factors into account in determining the price of bio-fuels:

Provided that any such factor shall not be repugnant to any Energy Law.

56. Determination of gas prices

(1) In determining the price of gas, the Authority shall take into account the following factors—

- (a) the value of the product in the reference spot market;
- (b) the cost of transportation and distribution from the place of production or purchase to the place of sale;
- (c) the weighted cost of storage;
- (d) the cost of goods in transit insurance and transit losses;
- (e) Government taxes and levies, if any, on the sale of gas; and
- (f) the licensee's approved mark-up.

(2) The Authority, may in its discretion, take any other factors into account in determining the price of gas:

Provided that any such factor shall not be repugnant to any Energy Law.

57. Personal attendance

Whenever necessary, the Authority may require any licensee dealing with bio-fuels or gas, as the case may be, to attend before it and justify any proposed price adjustment.

Division 4—Offences and Penalties

58. Offences and penalties

(1) Any licensee who—

(a) knowingly sells any liquid fuel or gas at a price higher than the maximum selling price; or

(b) knowingly makes a false declaration or allegation of fact to the Authority about the true cost of any of the IBLC elements, commits an offence and shall, on conviction, be liable to a fine of two thousand Kwacha (K2,000) and to imprisonment for six months.

(2) In addition to the penalties specified in subregulation (1), a court may order reimbursement of all reasonable expenses incurred by the Authority or any person as a consequence of the breach.

PART IV

STANDARD SPECIFICATIONS

Division 1—Application of this Part

59. Application of this Part

This Part shall apply to the regulation of the chemical contents of all liquid fuels and gas imported, sold and used in Malawi.

Division 2—Petrol Standard Specifications

60. Approved petrol

(1) No person shall import, sell or in any way use petrol in Malawi unless the same complies with the standard specifications set out in this Part.

(2) All petrol imported, sold or used in Malawi shall be unleaded petrol and shall comply with the specific standards set out in this Part.

61. Composition of petrol

(1) All petrol imported, sold or used in Malawi shall comprise hydrocarbon fuel to which additives may have been added to improve its performance or its storage stability or both and shall only be suitable for use in spark-ignition internal-combustion engines other than aviation piston engines.

(2) Any such petrol may also contain small and acceptable quantities of harmless colouring materials to give it a distinctive appearance.

(3) All petrol imported, sold or used in Malawi shall be blended and shall contain a minimum level of organic oxygenates such as fuel ethanol of not less than the per centum V/V set out in Table 1 in the Fourth Schedule hereto.

62. Compliance with petrol standard specifications

(1) All petrol imported, sold or used in Malawi shall, when tested, comply with all the requirements set out in Table 1 in the Fourth Schedule hereto.

(2) Any unleaded petrol shall be clear and free from any visible water, sediments, suspended matter or any other contaminant that can cause damage to any equipment designed to use this type of petrol.

63. Marking and labelling on petrol pumps and containers

(1) All petrol dispenser pumps and delivery containers used for the dispensing or delivery of petrol in Malawi shall bear such marks and labels as set out herein below—

(a) the name, trade name or trademark of the supplier or the vendor;
(b) the words “blended petrol” and “unleaded petrol” in clear and legible writing;

(c) a green band signifying unleaded petrol; and
(d) the MBS mark signifying compliance with the Malawi Bureau of Standards Certification Marking Scheme Regulations.

(2) All documents relating to the sale or delivery of petrol shall bear the batch number applicable to the petrol sold or delivered.

64. Testing petrol for compliance

(1) All petrol imported, sold or used in Malawi shall be tested for compliance with the standard specifications set out in these Regulations using any or all of the testing methods set out in Table 1 in the Fourth Schedule hereto.

(2) The Authority, in conjunction with MBS, may take such samples of petrol at any stage of the chain of supply for purposes of testing in accordance with the relevant procedures provided for in this Part.

65. Construction of sampling cans

(1) For purposes of this Part, the Authority shall cause to be made, or shall procure, sampling cans with which petrol samples may be collected either from the storage tanks or dispensing pumps.

(2) All sampling cans shall be constructed in such a manner as to comply with appropriate safety requirements as befits the purpose and the highly inflammable nature of petrol, and without prejudice to the generality of this regulation, any such cans shall be provided with screw caps incorporating a petroleum resistant washer.

66. Preparation for use of sampling cans

(1) Before any petrol is collected in the sampling can, any such can shall be rinsed with petrol and allowed to dry, to remove any residual traces of oil or other substances that might have been left in the can during manufacturing operations.

(2) All sampling cans shall, prior to being used, be checked for leaks to avoid distorting the sample tests.

67. Mode of sample collection

Petrol samples shall be collected from the source and processed in the manner provided for in Table 1 in the Fourth Schedule hereto.

68. No sample collection in direct sunlight

No sample of petrol shall be collected in direct sunlight to avoid risking changes in petrol, which may occur as a result of the petrol coming into direct contact with the sunlight.

69. Storage, labelling and transportation of samples

(1) All petrol samples collected for tests shall be stored in a cool and covered place and shall not be exposed to sunlight:

Provided that it shall not be necessary to keep any such samples in a refrigerator.

(2) Each can containing the sample petrol shall be labelled appropriately and legibly with information relating to the source of the sample in such a manner as would ensure that such information cannot be lost by either detachment or erasure.

(3) Where it is necessary to send the sample to a laboratory far from the collection point, the same shall be packed, transported and stored in the manner provided for under the Road Traffic (Carriage of Dangerous Cargo) Regulations.

Division 3—Diesel Standard Specifications

70. Approved diesel

No person shall import, transport, sell or in any way use diesel in Malawi unless the same complies with the standard specifications set out in this Part.

71. Composition of diesel

All diesel imported, sold or used in Malawi shall comprise hydro-carbon distillate fuel derived from petroleum to which small amounts of additives may have been added to improve its ignition, or its storage stability or both, or for any other lawful purpose.

72. Compliance with diesel standard specifications

All diesel imported, sold or used in Malawi shall comply with the standard specifications set out in Table 2 in the Fourth Schedule hereto.

73. Prohibition against contaminants

Without prejudice to the generality of regulation 72, all diesel imported, sold or used in Malawi shall be clear and free from visible water, grit, suspended matter and any other contaminants which can cause damage to, or malfunctioning of the equipment designed to use this type of fuel.

74. Grades of diesel and their composition

(1) All diesel imported, sold or used in Malawi may be of any of the following grades—

- (a) high speed diesel oil; and
- (b) light diesel oil.

(2) High speed diesel oil comprises all diesel fuel distillates of low volatility and which contain no residuum oil.

(3) Light diesel oil comprises all diesel fuel, which has more viscous distillates and blends of these that contain residuum oil.

75. Approved diesel storage stability

All diesel imported, sold or used in Malawi shall have such storage stability as would, under conventional storage conditions for a period of twelve months after the date of receipt, comply with the standard specifications set out in Table 2 in the Fourth Schedule hereto.

76. Marking and labelling of diesel pumps, tanks and containers

(1) All diesel dispenser pumps and delivery containers used for the dispensing or delivery of diesel in Malawi shall bear the following marks and labels—

- (a) the name, trade name or trademark and grade of diesel;
- (b) the name and address of the distributor;
- (c) the quantity of diesel, where possible;
- (d) the year of packaging;
- (e) the words “Flammable” together with the corresponding symbol for

labelling dangerous goods; and

(f) the MBS mark signifying compliance with the Malawi Bureau of Standards Certification Marking Scheme Regulations.

(2) Where any such diesel is packed in bulk storage tanks, road tank wagons, or rail tank wagons, the contents shall be identified as above in the storage and consignment documents.

77. Testing diesel fuel for compliance

The Authority, in conjunction with MBS shall carry out compliance tests of diesel imported, transported, sold or used in Malawi at any stage of the chain of supply in any manner provided for in Table 2 and Appendix A of the Fourth Schedule hereto.

Division 4—Paraffin Standard Specifications

78. Use of paraffin

No person shall import, sell or in any way use paraffin in Malawi unless the same complies with this Part.

79. Composition of paraffin

All paraffin imported, sold or used in Malawi shall comprise of hydrocarbon distillate fuel obtained from either sulphur dioxide (Edeleanu) process or the hydro-treating refining process and which may contain small quantities of acceptable harmless colouring materials.

80. Compliance with paraffin standard specifications

All paraffin imported, sold or used in Malawi shall comply with this Part by meeting the standard specifications set out in Table 3 in the Fourth Schedule hereto.

81. Approved smokepoint

All paraffin imported, sold or used in Malawi shall have a smokepoint which conforms to the value provided in Table 4 in the Fourth Schedule hereto.

82. Approved net specific energy and testing

All paraffin imported, sold or used in Malawi shall have the net specific energy of approximately 43.5 MJ/Kg as determined from the test fuel using the IP12 method and BS526 or by calculation from the test fuel density.

(2) When determining the net specific energy using the test fuel density method, the equation provided for in Appendix B in the Fourth Schedule hereto shall be used.

83. Approved burning qualities

All paraffin imported, sold or used in Malawi shall have the following burning qualities when tested in accordance with either IP10 or ASTM D187 methods at a fuel consumption rate not exceeding 23 grams/hour for a twenty-four hour testing period—

(a) the difference between the width of the flame and its initial width shall not exceed two millimetres;

(b) the decrease in the height of the flame in comparison to the height of the initial flame shall not exceed three millimetres;

(c) the chimney shall not show more than a slight bloom;

(d) there shall not be appreciable quantity of hard incrustation on the wick;

and

(e) the char value shall be less than twenty (20) milligrams per kilogram of the fuel actually burned.

84. Approved paraffin storage stability

All paraffin imported, sold or used in Malawi shall be of such storage stability as would, after storage in original containers under normal storage conditions for a period of at least twelve months from the date of receipt, comply with this Part.

85. Storage and transportation of paraffin

Paraffin shall be packed, transported and stored in such a manner as would comply with the Road Traffic (Carriage of Dangerous Cargo) Regulations, and these Regulations.

86. Marking and labelling of paraffin pumps, tanks and containers

(1) All paraffin dispenser pumps and delivery containers used for the dispensing or delivery of any such paraffin in Malawi shall bear such marks and labels as set out herein below in legible and indelible letters or marks—

- (a) the supplier's name;
- (b) the description of the product;
- (c) the quantity of the paraffin;
- (d) year of packaging;
- (e) the words "Flammable" together with the corresponding symbol for labelling dangerous goods;
- (f) the words "no smoking" together with the corresponding symbol for anti-smoking; and
- (g) the MBS mark signifying compliance with the Malawi Bureau of Standards Certification Marking Scheme Regulations.

(2) Where any such paraffin fuel is packed in bulk storage tanks, road tank wagons, or rail tank wagons, the contents shall be identified as above in the storage and consignment documents.

87. Compliance procedures for paraffin

The Authority, in conjunction with MBS shall carry out compliance tests of paraffin imported, sold or used in Malawi at any stage of the chain of supply using any of the sampling procedures described in ASTM D4057 and ASTM D4177.

Division 5—Other Fuels and Gas Standard Specifications

88. Approved standard specifications for other fuels and gas

All liquid fuels and gas not covered under Division 4 of this Part, imported, produced, sold or in any way used in Malawi shall comply with such standard specifications set out or which may be set down by MBS.

89. Testing procedures for compliance

The Authority, in conjunction with MBS, shall carry out appropriate compliance tests of all liquid fuels and gas falling under regulation 88 which are imported, produced, sold or otherwise used in Malawi using any approved and internationally acceptable testing procedure as may be established by MBS and published by notice in the Gazette.

90. Storage and transportation of ethanol and gas

All liquid fuels and gas not covered under Division 4 of this Part shall be packed, transported and stored in compliance with the Road Traffic (Carriage of Dangerous Cargo) Regulations and Part V of these Regulations.

Division 6—Offences and Penalties

91. Offences and penalties

(1) Any licensee or person who—

- (a) sells petrol not blended to the minimum specifications;

(b) imports, sells or offers to any other person for use any type of liquid fuels or gas which do not comply with this Part;

(c) falsely represents to any person about the true nature of any liquid fuel or gas; or

(d) prohibits or in any way obstructs the Authority or MBS from collecting samples of any liquid fuel or gas in his custody or under his control, commits an offence, and shall, on conviction, be liable to a fine of two thousand Kwacha (K2,000) and to imprisonment for six months.

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

PART V

STORAGE OF LIQUID FUELS AND GAS

Division 1—Application of this Part

92. Application of this Part

This Part shall apply to all matters relating to the processing, enforcement, construction and maintenance of storage facilities of all liquid fuels and gas.

Division 2—Preparation, Construction and Maintenance of Storage Facilities

93. Storage tanks for liquid fuels

All storage tanks for liquid fuels and gas shall be prepared, constructed and maintained in the manner prescribed in Part I of the Fifth Schedule hereto.

94. Storage sheds

All storage sheds shall be prepared, constructed and maintained in the manner prescribed in Part II of the Fifth Schedule hereto.

95. Storage of gas

All gas storage plants, sheds and cylinders shall be constructed or installed, as the case may be, and maintained, in the manner set out in Part III of the Fifth Schedule hereto.

Division 3—Management of Storage Area

96. Conditions for management and control of storage area

The following conditions shall apply to all storage areas in which liquid fuels shall be stored—

(a) every person managing or employed in or in connection with the storage area shall abstain from any act whatsoever which may cause fire and which is not reasonably necessary, and shall take all reasonable and necessary steps to prevent any other person from so doing;

(b) no smoking shall be permitted in a storage area or within sixteen metres thereof and suitable notices to this effect shall be conspicuously posted upon the storage area in red letters upon a whitebackground;

(c) no fire or naked light shall be permitted in a storage area or within sixteen metres thereof;

(d) all grass, bushes and shrub reasonably near a storage area shall be cut short to the satisfaction of the Authority and no cultivation shall be permitted within or within sixteen metres from the boundaries of any storage area; and

(e) every storage area where any brand of liquid fuels and gas are stored otherwise than in storage tanks or sheds shall be securely fenced to the satisfaction of the

Authority, and the plot on which any such storage area lies shall be so situated as to ensure a clear space of sixteen metres in width around the perimeter of the fenced area.

97. Prohibition against dispensing of liquid fuels

(1) No person shall dispense any brand of liquid fuels and gas within a storage area.

(2) Notwithstanding subregulation (1), liquid fuels and gas may be dispensed within sixteen metres from the boundaries of a storage area through the use of an approved dispenser pump of a design approved by the Authority.

98. Prohibition against soldering

No person shall carry out or permit the carrying out of any soldering work within the storage area except in a workshop specifically constructed for that purpose.

Division 4—Miscellaneous Provisions

99. Storage of liquid fuels in buildings

(1) No person shall store any brand of liquid fuels of a quantity of more than twenty litres within any building, which, or part of which, is used as living accommodation or as a place of habitual public resort:

Provided that the prohibition above shall not apply to—

(a) the storage of paraffin oil for domestic use in a quantity not exceeding three hundred litres; and

(b) subject to subregulation (2), the storage of liquid fuels in a quantity of less than four hundred litres for commercial purposes.

(2) A person who wishes to store liquid fuels or gas for commercial purposes pursuant to subregulation (1) (b) above shall first register with the Authority in Form LFG 7 in Part VII of the First Schedule hereto and shall pay a registration fee prescribed in the Third Schedule hereto.

(3) A person registered to store liquid fuels in accordance with this regulation shall, at all times, comply with the standards for storage of liquid fuels and gas as prescribed by MBS from time to time.

(4) A person registered to store liquid fuels or gas in accordance with these regulations shall be issued with a Registration Certificate in the form prescribed in Part IV of the Second Schedule hereto.

100. Storage in machinery or motor vehicles

Nothing in these Regulations shall apply to the storage of any brand or mixture thereof of liquid fuels in the tank of any motor vehicle or any stationary machinery or plant for consumption therein.

101. Reporting accidents

All accidents arising out of storage areas, tanks or sheds involving fire, explosion, or escape of any toxic gas or materials which can cause death or injury to persons or damage to property shall be reported immediately by the licensee or any of his agents or employees to the police, the fire brigade and the Authority.

PART VI

THIRD PARTY STORAGE CAPACITY ACCESS CONTRACTS

Division 1—Application of this Part

102. Application of this Part

This Part shall apply to the determination, accessibility and management of third party access to unutilized storage capacity of liquid fuels and gas.

Division 2—General Provisions

103. Third party storage capacity access contract

(1) A licensee who wishes to have additional storage capacity may approach any other licensee who has idle storage capacity and negotiate a third party storage capacity access contract.

(2) A licensee who has idle storage capacity and wishes to let out the same, may solicit any other licensee to use the idle storage capacity through a public advertisement or contracts.

104. Approval by the Authority

The Authority shall approve, endorse and monitor all third party storage capacity access contracts entered into between two or more licensees.

105. Compliance

A third party storage capacity access contract shall comply with the minimum terms and conditions set down in this Part.

106. Disclosure

The Authority shall have power to require any licensee to make a full and frank disclosure with respect to its maximum storage capacity as well as any available idle storage capacity.

Division 3—Eligibility and Minimum Terms

107. Eligibility

No person shall be eligible to enter into a third party storage capacity access contract unless such person holds a valid Storage Licence issued under these Regulations at the time the agreement is made or proposed to be made.

108. Minimum terms and conditions

Every third party storage capacity access contract shall contain the following minimum terms and conditions—

- (a) names and particulars of the parties between whom the contract is proposed to be entered into;
- (b) detailed description of the storage facility, particularly the Plot Number where the facility is situated and the exact amount of idle capacity available, in respect of which any such contract is being entered into;
- (c) specific time period within which the contract shall subsist;
- (d) exact amount of consideration to be furnished by the third party, and where any such consideration is a monetary value, the contract shall specify the mode of payment;
- (e) statement of proof of possession of valid licences copies of which shall be attached to the contract as an appendix;
- (f) list of grounds and manner in which the contract may come to an end; and
- (g) list of rights and duties of each party in the event of breach.

109. Other terms and conditions

Parties to a third party storage capacity access contract shall be at liberty to negotiate any such terms and conditions as mutually agreed:

Provided that any term or condition which is in any way contrary to these Regulations or any other Act which applies to liquid fuels and gas shall be void and thereby ineffectual to the extent of the inconsistency thereof.

Division 4—Submission and Approval

110. Submission to the Authority

(1) Once third party storage capacity access terms have been agreed, the parties shall submit a draft contract to the Authority for its endorsement and approval.

(2) The Authority shall consider the draft contract and communicate its decision within thirty days of receipt of the draft contract.

(3) A third party storage capacity access contract shall not be valid until the Authority has approved it.

111. Corrections and resubmissions

(1) Where the Authority is of the opinion that the draft contract is not in line with these Regulations or any other law in force, it shall return the same to the parties with its recommendations for further refining and correction.

(2) The parties shall make such corrections as recommended by the Authority and send the draft back to the Authority for approval.

112. Mediation

The Authority may mediate where there is—

- (a) unjustified denial of access by one party; or
- (b) non-agreement on terms of access between the parties.

PART VII

MINIMUM STOCKS AND STRATEGIC STORAGE RESERVES

Division 1—Application of this Part

113. Application of this Part

This Part shall apply to all matters relating to the storage of minimum stocks and strategic reserves and all matters incidental thereto.

Division 2—Minimum Stocks

114. Minimum stocks

(1) Every licensee shall comply, at all material times, with the minimum stocks for petrol, diesel, paraffin, aviation fuel and gas, which the Authority shall establish by notice in the Gazette from time to time.

(2) The Authority shall ensure that the minimum stocks of petrol, diesel, paraffin, aviation fuel and gas at all material times, do not dwindle below ninety days cover of continuous consumption without replenishment.

115. Determinative factors

In determining the exact amount of minimum petrol, diesel, paraffin, aviation fuel and gas stocks to be kept, the Authority shall take the following factors into account—

- (a) the strategic importance of the fuel in question to the people of Malawi;
- (b) the available demand of the fuel in question;
- (c) the storage cost implications of keeping in stock the fuel in question;
- (d) the available storage capacity on the part of the licensee; and
- (e) the international market trends of the fuel in question.

116. Strategic fuel reserve storage

The Government shall establish a strategic fuel reserve storage with a holding capacity of not less than sixty days of continuous consumption without replenishment to buffer the minimum stocks maintained by the licensees.

117. Commercial storage rationalization rules

(1) The Authority shall prepare and enforce petrol, diesel, paraffin, aviation fuel and gas commercial storage rationalization rules which among other things shall require—

- (a) every wholesale licensee to maintain minimum fuel stocks at all material times of thirty days of continuous consumption without replenishment;
- (b) every wholesale licensee to allow third party utilization and hospitality of any idle capacity it may have; and
- (c) every wholesale licensee to establish a regional presence in the geographical distribution of its storage capacity.

(2) The Authority shall publish the Commercial Storage Rationalization Rules in the Gazette.

118. Coastal facilities

The Government, on recommendations from the Authority, may acquire, own and manage its own coastal storage and handling facilities of petrol, diesel and paraffin in order to meet the requirements of maintaining the minimum stocks of the products under these Regulations.

119. Direct fuel importation

The Government may directly import and transport petrol, diesel, paraffin, aviation fuel and gas into Malawi from a supplier or suppliers in order to meet the minimum stocks set down by these Regulations.

120. Wholesaler's obligations

(1) Every holder of a Wholesale Licence shall purchase from the Government Strategic Reserves at six months intervals as determined by the Authority.

(2) The amounts of liquid fuels and gas to be so purchased by each Wholesale Licence holder shall be in proportion to the market share of the wholesaler, as determined by the Authority.

Division 3—Determination of Minimum Stocks

121. Determination and publication

(1) The Authority shall determine the minimum stocks of fuel to be kept by each licensee based on the licensee's proportional market share in Malawi.

(2) The Authority shall publish in the Gazette the formula for determining the exact amount of minimum stocks to be kept by each licensee.

122. Maximum and idle storage capacity

(1) Every licensee shall, on request by the Authority, declare its maximum fuel storage capacity and the average amounts of fuel actually kept at any given time.

(2) A licensee, if requested by the Authority, shall declare to the Authority any idle and unutilized storage capacity, and disclose whether or not any such capacity is intended for immediate use.

PART VIII

EMERGENCY PLAN

Division 1—Application of this Part

123. Application of this Part

This Part shall apply to the declaration of an emergency and the formulation of the National Liquid Fuels and Gas Emergency Plan.

Division 2—General Provisions

124. Declaration of liquid fuel emergency

(1) A state of liquid fuels and gas emergency shall be deemed to exist, when a natural disaster or accident, state of war, civil strife or any act of sabotage to the supply of liquid fuels in Malawi dwindles below sixty days of cover of continuous consumption without replenishment.

(2) Where as a result of the occurrence of any or all of the events stipulated in subregulation (1), the liquid fuels and gas shortage becomes so acute as to warrant active intervention by the Government in the chain of supply, the Minister shall by notice published in the Gazette, declare a state of liquid fuels and gas emergency.

(3) The notice of liquid fuel and gas emergency issued under subregulation (2) shall take effect on such date as the Minister may specify in the notice, otherwise it shall be deemed to take effect fourteen days from the date of its publication in the Gazette.

125. Authority's mandate in an emergency

Upon the declaration of a liquid fuel emergency under this Part, the Authority may temporarily intervene in the chain of supply or take any measures as may be stipulated in the National Liquid Fuels and Gas Emergency Plan.

126. Consultations

(1) The Authority and the Minister shall hold a consultative meeting with all major stakeholders in the liquid fuels and gas industry to have a pre-emergency review of the situation and agree on reasonable corrective measures, before declaring a state of liquid fuels emergency.

(2) Where, for any reason the pre-emergency consultative meeting is unable to agree on any reasonable corrective measures, the Authority shall have power with the approval of the Minister to implement any such measures as the situation may demand and any such decision shall be final.

127. Suspension or revocation of declaration of liquid fuel emergency

(1) The Minister may by notice published in the Gazette, revoke or suspend any notice of emergency given under these Regulations upon being satisfied that the liquid fuel and gas situation has normalized.

(2) Upon revocation or suspension of a state of liquid fuel emergency, all corrective measures undertaken by the Authority shall cease forthwith, unless otherwise stated in the National Liquid fuels and Gas Emergency Plan.

Division 3—National Liquid Fuels and Gas Emergency Plan

128. National Liquid Fuel and Gas Emergency Plan

(1) The Authority shall formulate and develop a National Liquid Fuels and Gas Emergency Plan in consultation with the Liquid Fuels and Gas industry and with the approval of the Minister.

(2) The Authority shall publish in the Gazette, the National Liquid Fuels and Gas Emergency Plan, at least fourteen days from the date of approval by the Minister.

(3) The National Liquid Fuels and Gas Emergency Plan shall be available to the general public or any interested person at a fee, which shall be determined by the Authority from time to time.

129. Guiding principles and factors

In formulating and developing the National Liquid Fuels and Gas Emergency Plan, the Authority shall be guided by such principles and factors as it may deem necessary, which shall include—

- (a) the objectives and the general spirit by the Act;

- (b) the objectives and overall goals of the Malawi Energy Policy;
- (c) the international trends and measures in dealing with fuel crises;
- (d) the nature and cause of the actual or impending or forecasted fuel crisis in Malawi;
- (e) the complexity of dealing with various causes of supply distortions or interruptions of liquid fuels and gas;
- (f) the short- and long-term effects of any corrective measures to be taken;
- (g) the overall short- and long-term economic effect that any such crisis or corrective measures thereof may have on the economy as a whole or the particular industry in question;
- (h) the possibility of multifaceted and multisectoral redress mechanisms; and
- (i) the role and input of the necessary stakeholders, in the liquid fuels and gas industry.

130. Corrective measures

(1) The National Liquid Fuels and Gas Emergency Plan shall clearly state all possible corrective measures which may be undertaken or implemented by the Authority, in the event of an emergency and without prejudice to the generality of the foregoing, such measures may include the following—

- (a) changing haulage routes or mode of transportation;
- (b) issuing more or suspending or revoking some licences as the situation may require;
- (c) rationing liquid fuels and gas sales at every or some points in the chain of supply; and
- (d) direct involvement or intervention by the Authority in the chain of supply.

(2) A measure stipulated in the National Liquid Fuels and Gas Emergency Plan shall be implemented subject to the Preservation of Public Security (Conservation of Motor Fuel) Regulations.

PART IX

MISCELLANEOUS PROVISIONS

131. Inspection

(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 (K2,000) and to imprisonment for six months.

132. Provision of information

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.

133. General offence and penalties

(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 (K2,000) and to imprisonment for six months.

(2) In addition to the penalties provided 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.

FIRST SCHEDULE

Part II

FORMS

PART I

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT reg. 14

(CAP. 50:03)

APPLICATION FOR LICENCE TO PRODUCE LIQUID FUELS AND GAS

FORM LFG 1

SECTION A

PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:

.....
A.2 Address of Applicant, or in the case of a body corporate, the registered office:
.....
.....

A.3 Telephone Number of Applicant:

A.4 Fax Number:

A.5 E-mail Address:

A.6 Details of Contact Person:

Full Name:

Telephone Number:

Fax Number:

E-mail Address:

A.7 Legal personality of Applicant:

.....

A.8 If the Applicant is a registered company or organization, enclose the following—

(a) full names of shareholders and their holding percentages;

(b) full names and occupations of Directors;

(c) Certificate of Incorporation;

(d) Memorandum and Articles of Association/Trust Deed or Constitution; and

(e) past experience in Liquid Fuels or Gas.

SECTION B

COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:

.....

SECTION C

AREA TO WHICH THE APPLICATION RELATES

C.1 Proof of applicant’s ownership or acquisition of land such as certificate of transfer or lease.

Certificate of Transfer of Land:

Date of issue:

Name of Proprietor:

Location:

Certificate of Lease:

Date of issue:

Name of Lessor:.....

Name of Lessee:

Duration of Lease:

Location:

Tenancy Agreement:

Date of Agreement:.....

Name of the Landlord:

Name of the Tenant:.....

Duration of the Tenancy:

Location:

C.2 Provide sufficient information (maps or sketch plans of the area or areas to which the application relates):

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C.3 Provide proof of planning authorization from Planning Authorities on the following:

- (a) approved Building Plans; and
- (b) approved Storage Construction Plans.

SECTION D

TECHNICAL INFORMATION

Submit singleline diagram(s) of the plant or factory by means of which the applicant intends to produce the type of liquid fuel or gas in question. Identify any parts of that plant or factory, if any, which will not be in possession or control of the applicant. The diagram should be accompanied by a certificate of approval from the Chief Inspector of Factories in Malawi. The Applicant shall also submit MBS certification for any depot equipment to be used.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a five year business plan stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and/or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next five years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Investment Program for current and the next five years. Attach copies of the detailed scheme or schemes prepared by a competent engineer and mode and cost of financing such a scheme.

E.3 Fixed Assets:

Provide the Applicant's summary of total assets available and intended for use in the production process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the applicant.

E.5 Bank Reference Letter:

In the case of an Applicant registered in Malawi, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F

INFORMATION ON HUMAN RESOURCES

F. Personnel—

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs.

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G

PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies—

(a) Certificate of Registration of Workplace under the Occupational Safety, Health and Welfare Act (Cap. 55:07);

(b) Certificate of Environment Impact Assessment from the Department of Environmental Affairs; and

(c) any other certificates or permits.

SECTION H

ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I

ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the production and storage facilities on natural resources and environment and mitigation measures proposed.

SECTION J

ADDITIONAL INFORMATION

Please provide any other information which the applicant wishes to include with this application:

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PART II
LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT
(CAP. 50:03)
APPLICATION FOR LICENCE TO IMPORT LIQUID FUELS AND GAS reg. 19
FORM LFG 2
SECTION A

PARTICULARS OF APPLICANT

- A.1 Full Name of Applicant:.....
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- A.2 Address of Applicant, or in the case of a body corporate, the registered office:
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.....
- A.3 Telephone Number of Applicant:
- A.4 Fax Number:
- A.5 E-mail Address:.....
- A.6 Details of Contact Person:
Full Name:
Telephone Number:
Fax Number:
E-mail Address:.....
- A.7 Legal personality of Applicant:
- A.8 If the Applicant is a registered company or organization, enclose the following—
 - (a) full names of shareholders and their holding percentages;
 - (b) full names and occupations of Directors;
 - (c) Certificate of Incorporation;
 - (d) Memorandum and Articles of Association/Trust Deed or Constitution; and
 - (e) past experience in Liquid Fuels or Gas.

SECTION B
COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:
.....

SECTION C
AREA TO WHICH THE APPLICATION RELATES

C.1 Proof of applicant's ownership or acquisition of land such as certificate of transfer or lease.

Certificate of Transfer of Land:

Date of issue:

Name of Proprietor:

Location:

Certificate of Lease:

Date of issue:

Name of Lessor:

Name of Lessee:

Duration of Lease:

Location:

Tenancy Agreement:

Date of Agreement:

Name of the Landlord:

Name of the Tenant:.....

Duration of the Tenancy:

Location:

C.2 Provide sufficient information (maps or sketch plans of the area or areas to which the application relates):

.....
.....

C.3 Provide proof of planning authorization from Planning Authorities on the following:

- (a) Approved Building Plans; and
- (b) Approved Storage Construction Plans.

SECTION D

TECHNICAL INFORMATION

Submit single line diagrams(s) of the storage sheds or areas by means of which the applicant intends to store the type of liquid fuel or gas in question. Identify any parts of that storage shed or area, if any, which will not be in possession or control of the applicant. All diagrams should be accompanied by a certificate of approval from the Chief Inspector of Factories in Malawi. The Applicant shall also submit MBS certification for any depot equipment to be used.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a five year business plan, stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and/or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next five years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Investment Program for current and the next five years. Attach copies of the detailed scheme or schemes prepared by a competent engineer and mode and cost of financing such a scheme.

E.3 Fixed Assets:

Provide the Applicant’s summary of total assets available and intended for use in the production process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the Applicant.

E.5 Bank Reference Letter:

In the case of an Applicant, registered in Malawi, attach a copy of a letter of recommendation of the Applicant’s credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F

INFORMATION ON HUMAN RESOURCES

F. Personnel:

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs.

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G

PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies—

(a) Certificate of Registration of Workplace under the Occupational Safety, Health and Welfare Act (Cap. 55:07);

(b) Certificate of Environment Impact Assessment from the Department of Environmental Affairs; and

(c) any other certificates or permits.

SECTION H

ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I

ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the storage facilities on natural resources and environment and mitigation measures proposed.

SECTION J

ADDITIONAL INFORMATION

Please provide any other information which the applicant wishes to include with this application:

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PART III

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

APPLICATION FOR LICENCE TO TRANSPORT LIQUID FUELS AND GAS reg. 24

FORM LFG 3

SECTION A

PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:.....

A.2 Address of Applicant, or in the case of a body corporate, the registered office:
.....
.....

A.3 Telephone Number of Applicant:

A.4 Fax Number:

A.5 E-mail Address:

A.6 Details of Contact Person:

Full Name:

Telephone Number:

Fax Number:

E-mail Address:

A.7 Legal personality of Applicant:

A.8 If the Applicant is a registered company or organization, enclose the following—

- (a) full names of shareholders and their holding percentages;
- (b) full names and occupations of Directors;
- (c) Certificate of Incorporation;
- (d) Memorandum and Articles of Association/Trust Deed or Constitution; and
- (e) past experience in transporting Liquid Fuels or Gas or any other dangerous

cargo.

SECTION B

COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:
.....

SECTION C

PROOF OF OWNERSHIP OR ACQUISITION OF APPROVED MOTOR VEHICLES

C. Proof of applicant's ownership or acquisition of approved motor vehicles for the transportation of liquid fuels and gas, attaching certified copies of the following in respect of each and every motor vehicle intended for use thereof—

- (a) Motor Vehicle Registration Certificate;
- (b) Motor Vehicle Licensing Certificate;
- (c) Motor Vehicle Certificate of Fitness; and
- (d) Motor Vehicle's total holding capacity.

SECTION D

TRANSPORT ROUTES

Submit a detailed statement of preferred transportation routes to be operated by the Applicant and the estimated quantities of liquid fuels and gas to be transported via each route per month.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a one year business plan, stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and/or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next five years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Provide an Investment Program for current year and means of financing the operations.

E.3 Fixed Assets:

Provide the Applicant's summary of total assets available and intended for use in the production process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the Applicant.

E.5 Bank Reference Letter:

In the case of an Applicant registered in Malawi, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F

INFORMATION ON HUMAN RESOURCES

F. Personnel—

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs; and

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G

PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies—

(a) Certificate of Registration of Workplace under the Occupational Safety, Health and Welfare Act (Cap 55:07);

(b) Proof that motor vehicles do comply with the Road Traffic Act (Cap. 69.01) of the Laws of Malawi; and

(c) any other certificates or permits.

SECTION H

ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I

ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the motor vehicles on natural resources and environment and mitigation measures proposed.

SECTION J

ADDITIONAL INFORMATION

Please provide any other information which the applicant wishes to include with this application:

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PART IV

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

APPLICATION FOR LICENCE TO STORE LIQUID FUELS AND GAS reg. 28

FORM LFG 4

SECTION A

PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:.....

A.2 Address of Applicant, or in the case of a body corporate, the registered office:
.....
.....

A.3 Telephone Number of Applicant:

A.4 Fax Number:

A.5 E-mail Address:

A.6 Details of Contact Person:

Full Name:

Telephone Number:

Fax Number:

E-mail Address:

A.7 Legal personality of Applicant:

A.8 If the Applicant is a registered company or organization, enclose the following—

(a) full names of shareholders and their holding percentages;

(b) full names and occupations of Directors;

(c) Certificate of Incorporation;

- (d) Memorandum and Articles of Association/Trust Deed or Constitution; and
- (e) Past experience in Liquid Fuels or Gas.

SECTION B

COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:

.....

SECTION C

AREA TO WHICH THE APPLICATION RELATES

C.1 Proof of applicant's ownership or acquisition of land such as certificate of transfer or lease.

Certificate of Transfer of Land:

Date of issue:

Name of Proprietor:

Location:

Certificate of Lease:

Date of issue:

Name of Lessor:

Name of Lessee:

Duration of Lease:

Location:

Tenancy Agreement:

Date of Agreement:

Name of the Landlord:

Name of the Tenant:

Duration of the Tenancy:

Location:

C.2 Provide sufficient information (maps or sketch plans of the area or areas to which the application relates):

.....

.....

C.3 Provide proof of planning authorization from Planning Authorities on the following:

(a) Approved Building Plans; and

(b) Approved Storage Construction Plans.

SECTION D

TECHNICAL INFORMATION

Submit single line diagrams(s) of the storage sheds or areas by means of which the applicant intends to store and sell the type of liquid fuel or gas in question. Identity any parts of that storage shed or area, storage tanks or depot, if any, which will not be in possession or control of the applicant. A certificate of approval should accompany all diagrams from the Chief Inspector of Factories in Malawi. The Applicant shall also submit MBS certification for any depot equipment to be used.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a three year business plan stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and/or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next three years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Investment Program for current and the next three years. Attach copies of the detailed scheme or schemes prepared by a competent engineer and mode and cost of financing such a scheme.

E.3. Fixed Assets:

Provide the Applicant's summary of total assets available and intended for use in the wholesale process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the Applicant.

E.5 Bank Reference Letter:

In the case of an Applicant registered in Malawi, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F

INFORMATION ON HUMAN RESOURCES

F. Personnel:

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs.

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G

PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies—

(a) Certificate of Registration of Workplace under the Occupational Safety, Health and Welfare Act (Cap. 55:07);

(b) Certificate of Environment Impact Assessment from the Department of Environmental Affairs; and

(c) any other certificates or permits.

SECTION H

ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I

ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the storage facilities on natural resources and environment and mitigation measures proposed.

SECTION J

ADDITIONAL INFORMATION

Please provide any other information which the applicant wishes to include with this application:

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PART V

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

APPLICATION FOR LICENCE TO WHOLESALE LIQUID FUELS AND GAS reg. 32

FORM LFG 5

SECTION A

PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:

A.2 Address of Applicant, or in the case of a body corporate, the registered office:
.....
.....

A.3 Telephone Number of Applicant:

A.4 Fax Number:

A.5 E-mail Address:

A.6 Details of Contact Person:

Full Name:

Telephone Number:

Fax Number:

E-mail Address:

A.7 Legal personality of Applicant:

A.8 If the Applicant is a registered company or organization, enclose the following—

- (a) full names of shareholders and their holding percentages;
- (b) full names and occupations of Directors;
- (c) Certificate of Incorporation;
- (d) Memorandum and Articles of Association/Trust Deed or Constitution; and
- (e) past experience in Liquid Fuels or Gas.

SECTION B

COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:
.....

SECTION C

AREA TO WHICH THE APPLICATION RELATES

C.1 Proof of applicant’s ownership or acquisition of land such as certificate of transfer or lease.

Certificate of Transfer of Land:

Date of issue:

Name of Proprietor:

Location:

Certificate of Lease:

Date of issue:

Name of Lessor:

Name of Lessee:

Duration of Lease:

Location:

Tenancy Agreement:

Date of Agreement:

Name of the Landlord:

Name of the Tenant:.....

Duration of the Tenancy:

Location:

C.2 Provide sufficient information (maps or sketch plans of the area or areas to which the application relates):

.....
.....

C.3 Provide proof of planning authorization from Planning Authorities on the following:

- (a) Approved Building Plans; and
- (b) Approved Storage Construction Plans.

SECTION D

TECHNICAL INFORMATION

Submit single line diagram(s) of the storage sheds or areas by means of which the applicant intends to carry out the retail sales of the type of liquid fuel or gas in question. Identify any parts of that storage shed or storage area or storage tanks or disperser pumps, if any, which will not be in possession or control of the applicant. All diagrams should be accompanied by a certificate of approval from the Chief Inspector of Factories in Malawi. The Applicant shall also submit certification for any depot equipment to be used.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a three year business plan stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next three years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Investment Program for current and the next three years. Attach copies of the detailed scheme or schemes prepared by a competent engineer and mode and cost of financing such a scheme.

E.3 Fixed Assets:

Provide the Applicant's summary of total assets available and intended for use in the production process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the applicant.

E.5 Bank Reference Letter:

In the case of an Applicant registered in Malawi, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F

INFORMATION ON HUMAN RESOURCES

F. Personnel—

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs.

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G

PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies—

(a) Certificate of Registration of Workplace under the Occupational Safety, Health and Welfare Act, (Cap. 55:07);

(b) Certificate of Environment Impact Assessment from the Department of Environmental Affairs; and

(c) any other certificates or permits.

SECTION H

ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I

ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the storage facilities on natural resources and environment and mitigation measures proposed.

SECTION J

ADDITIONAL INFORMATION

J. Please provide any other information which the applicant wishes to include with this application:

.....

.....
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PART VI

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

APPLICATION FOR LICENCE TO RETAIL LIQUID FUELS AND GAS reg. 36

FORM LFG 6

SECTION A

PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:.....
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A.2 Address of Applicant, or in the case of a body corporate, the registered office:
.....
.....

A.3 Telephone Number of Applicant:

A.4 Fax Number:

A.5 E-mail Address:.....

A.6 Details of Contact Person:

Full Name:

Telephone Number:

Fax Number:

E-mail Address:.....

A.7 Legal personality of Applicant:

A.8 If the Applicant is a registered company or organization, enclose the following—

- (a) full names of shareholders and their holding percentages;
- (b) full names and occupations of Directors;
- (c) Certificate of Incorporation;
- (d) Memorandum and Articles of Association Trust Deed or Constitution; and
- (e) past experience in Liquid Fuels or Gas.

SECTION B

COMMENCEMENT DATE OF LICENCE

B. Desired date from which the licence (if granted) is to take effect:
.....

SECTION C

AREA TO WHICH THE APPLICATION RELATES

C.1 Proof of applicant's ownership or acquisition of land such as certificate of transfer or lease.

Certificate of Transfer of Land:

Date of issue:

Name of Proprietor:

Location:

Certificate of Lease:

Date of issue:

Name of Lessor:

Name of Lessee:
Duration of Lease:
Location:
Tenancy Agreement:
Date of Agreement:
Name of the Landlord:
Name of the Tenant:
Duration of the Tenancy:
Location:

C.2 Provide sufficient information (maps or sketch plans of the area or areas to which the application relates):

.....
.....

C.3 Provide proof of planning authorization from Planning Authorities on the following:

- (a) Approved Building Plans; and
- (b) Approved Storage Construction Plans.

SECTION D

TECHNICAL INFORMATION

A scaleplan of storage construction, approved building plans, storage tanks and depot equipment approved by MBS and the Inspector of factories.

SECTION E

FINANCIAL INFORMATION

E.1 Income Statement:

Provide statements and a five year business plan stating the proposed investment plan replete with projected sales and cash flow statements, profit and loss balance sheet and market projections. Attach copies of the current and or budgeted balance sheet, rate of return, profit and loss account and source and application of funds for current and next five years. Indicate major cost items such as staff costs, maintenance, etc.

E.2 Investment Program:

Investment Program for current and the next five years. Attach copies of the detailed scheme or schemes prepared by a competent engineer and mode and cost of financing such a scheme.

E.3 Fixed Assets:

Provide the Applicant's summary of total assets available and intended for use in the production process. This information should be accompanied by a certificate of verification from certified public accountants.

E.4 Audited Accounts:

Provide copies of the latest audited accounts of the applicant.

E.5 Bank Reference Letter:

In the case of an Applicant registered in Malawi, attach a copy of a letter of recommendation of the Applicant's credit worthiness from at least one reputable local commercial bank.

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 local commercial bank and one reputable international bank.

SECTION F
INFORMATION ON HUMAN RESOURCES

F. Personnel—

(a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs.

(b) Provide curriculum vitae of top management personnel of the applicant.

SECTION G
PERMITS FROM OTHER GOVERNMENT DEPARTMENTS OR REGULATORY
AUTHORITIES

Submit copies of the following permits or approvals issued by public or local authorities or other regulatory agencies

(a) Certificate of Registration of Workplace under the Occupational Society Health and Welfare Act (Cap. 55:07);

(b) Certificate of Environment Impact Assessment from the Department of Environmental Affairs; and

(c) any other certificates or permits.

SECTION H
ADVERTISING NOTICE

Attach a draft copy of the notice of advertisement as to representations or objections.

SECTION I
ENVIRONMENTAL CONSIDERATION

Provide a brief description of the likely negative impact of the storage facilities on natural resources and environment and mitigation measures proposed.

SECTION J
ADDITIONAL INFORMATION

J. Please provide any other information which the applicant wishes to include with this application:

.....
.....
.....
.....
.....
.....

PART VII
LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT
(CAP. 50:03)

REGISTRATION FORM FOR LIQUID FUELS AND GAS STORAGE reg. 99

SECTION A
PARTICULARS OF APPLICANT

A.1 Full Name of Applicant:.....

A.2 Address of Applicant, or in the case of a body corporate, the registered office:

.....
.....

- A.3 Telephone Number of Applicant:
- A.4 Fax Number:
- A.5 E-mail Address:
- A.6 Details of Contact Person:
 - Full Name:
 - Telephone Number:
 - Fax Number:
 - E-mail Address:
- A.7 Legal personality of Applicant:
- A.8 If the applicant is a company provide the following—
 - (a) Full names of shareholders and their holding percentages;
 - (b) Full names and occupation of Directors;
 - (c) Certificate of Incorporation; and
 - (d) Memorandum and Articles of Association.

SECTION B

COMMENCEMENT DATE, PURPOSE AND DURATION OF REGISTRATION

- B.1 Desired date from which the registration (if granted) is to take effect:
 -
- B.2 Duration of the registration from commencement date:
- B.3 Purpose for registration:
- B.4 Type of application (issue, transfer, amendment or renewal):

SECTION C

INFORMATION ON HUMAN RESOURCES

- C. Personnel—
 - (a) Submit details of the number of staff and employees and their categories and grades in the service of or to be recruited by the applicant, showing their qualifications and number of years of experience in similar jobs; and
 - (b) Provide curriculum vitae of top management personnel of the applicant.

SECTION D

PERMITS FROM OTHER GOVERNMENT OR REGULATORY AUTHORITIES

Submit copies of permits or approvals issued by public or local authority or other regulatory agencies necessary for the operation of the Coal Supply business.

SECTION E

ENVIRONMENTAL CONSIDERATION

- (a) Provide a brief description of the likely negative impact of the storage of liquid fuels and gas on natural resources and environment and mitigation measures proposed.
- (b) Provide a copy of the approved environmental mitigation plan (if any) by the relevant authority.

SECTION F

ADDITIONAL INFORMATION

Please provide any other relevant information which the applicant wishes to include with this application:

.....
.....
.....
.....
.....
.....
.....
.....
.....

.....
SECOND SCHEDULE reg. 10

LICENCES

PART I

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

PRODUCTION LICENCE

[No.]

This Licence is hereby granted to:

.....
of for the
production of at the place(s)

described in Form LFG 1, subject to the conditions prescribed by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the day of next following the date of issue hereof, and may be renewed on application being made for this purpose.

Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, of which the Licensee admits cognizance.

PART II

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

IMPORTATION LICENCE

[No.]

This Licence is hereby granted to:

.....
of for the
importation of

from into Malawi, subject to the conditions prescribed by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the day of next following the date of issue hereof, and may be renewed on application being made for this purpose. Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, of which the Licensee admits cognizance.

PART III

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

TRANSPORTATION LICENCE

[No.]

This Licence is hereby granted to:

.....
of

for the transportation of
from to subject to the conditions prescribed by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the..... day of next following the date of issue hereof, and may be renewed on application being made for this purpose. Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, of which the Licensee admits cognizance.

PART IV

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

STORAGE LICENCE

[No.]

This Licence is hereby granted to:

.....
of for the storage of at the place(s) described in Form LFG 4 submitted to the Authority, subject to the conditions prescribed by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the day of next following the date of issue hereof, and may be renewed on application being made for this purpose. Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, of which the Licensee admits cognizance.

PART V

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

WHOLESALE LICENCE

[No.]

This Licence is hereby granted to:

.....
of for the
wholesale of at the place(s)
described in Form LFG 5 submitted to the Authority, subject to the conditions prescribed
by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the
Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the day of next following the
date of issue hereof, and may be renewed on application being made for this purpose.

Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply)
Regulations, 2009, of which the Licensee admits cognizance.

PART VI

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

RETAIL LICENCE

[No.]

This Licence is hereby granted to:

.....
of for the
retailing of at the place(s)
described in Form LFG 6 submitted to the Authority, subject to the conditions prescribed
by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the
Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Licence shall expire on the day of next following the
date of issue hereof, and may be renewed on application being made for this purpose.

Issued this day of, 20.....

.....
for Malawi Energy Regulatory Authority

This Licence is issued subject to the Liquid Fuels and Gas (Production and Supply)
Regulations, 2009, of which the Licensee admits cognizance.

PART VII

LIQUID FUELS AND GAS (PRODUCTION AND SUPPLY) ACT

(CAP. 50:03)

STORAGE REGISTRATION CERTIFICATE

[No.]

This Registration Certificate is hereby issued to:

.....
of for the

storage of
 at (physical address)
 subject to the conditions prescribed by the Liquid Fuels and Gas (Production and Supply) Regulations, 2009, made under the Liquid Fuels and Gas (Production and Supply) Act (Cap. 50:03).

This Registration Certificate shall expire on the day of next following the date of issue hereof, and may be renewed on application being made for this purpose.

Issued this day of, 20.....

.....
 for Malawi Energy Regulatory Authority

This Registration Certificate is issued subject to the Liquid fuels and Gas (Production and Supply) Regulations, 2009, of which the Licensee admits cognizance.

THIRD SCHEDULE regs. 7, 12, 17, 22, 26, 30, 34, 38 and 99

LICENCE AND REGISTRATION FEES

1. On application for a licence or renewal thereof—
 - (a) Production Licence—
 - (i) crudeoil production 5 tambala/litre
 - (ii) crudeoil refining 3 tambala litre
 - (iii) production of bio-fuels 2.5 tambala/litre
 - K
t
 - (b) Importation Licence—
 - (i) lubricants 300,000 00
 - (ii) other liquid fuels and gas 300,000 00
 - (c) Transport Licence 250,000 00
 - (d) Storage Licence 200,000 00
 - (e) Wholesale Licence—
 - (i) lubricants 250,000 00
 - (ii) other liquid fuels and gas 300,000 00
 - (f) Retail Licence—
 - (i) lubricants 50,000 00
 - (ii) other liquid fuels and gas 100,000 00
2. On issue of a licence—
 - (a) Production Licence 5,000 00
 - (b) Refining licence 5,000 00
 - (c) Importation Licence—
 - (i) lubricants 5,000 00
 - (ii) other liquid fuels and gas 5,000 00
 - (d) Transport Licence 5,000 00
 - (e) Storage Licence 5,000 00
 - (f) Wholesale Licence—
 - (i) lubricants 5,000 00
 - (ii) other liquid fuels and gas 5,000 00
 - (g) Retail Licence—
 - (i) lubricants 5,000 00

- (ii) other liquid fuels and gas 5,000 00
3. Registration fees for liquid fuels and gas for commercial purposes and annual renewal 5,000 00

FOURTH SCHEDULE

STANDARD SPECIFICATIONS

TABLE 1 regs. 62, 63 and 66

PETROL STANDARD SPECIFICATIONS

Specification requirements for inland grade unleaded petrol R93 and coastal grade unleaded petrol R95

| Property | Specification requirement | Test method | | |
|--|---|-------------|-------------|----------------------------|
| R 93 unleaded | R95 unleaded | ASTM IP | | |
| Octane rating— | | | | |
| (a) | Research octane number (RON), minimum | 93 | 95 | |
| | D2699 237 | | | |
| (b) | Motor octane number (MON), minimum | 83 | 85 | D2700 |
| | 236 | | | |
| (c) | Motor octane number for blends containing more than 2% (v/v) alcohol, min | 85 | 87 | D2700 236 |
| Colour Yellowish Yellowish Visual | | | | |
| | Density at 20°C, kg/l | 0,710-0,785 | 0,710-0,785 | D1298 |
| D4052 160 | | | | |
| 365 | | | | |
| Distillation— | | | | |
| (a) | Temperature, °C for— | | | |
| | (i) 10% (v/v) evaporated, max .. | 65 | 65 | |
| | (ii) 50% (v/v) evaporated | 77—115 | 77—115 | |
| | (iii) 90% (v/v) evaporated, max ... | 185 | 185 | D86 123 |
| (b) | Final boiling point, °C, max | 215 | 215 | |
| (c) | Residue, % (v/v), max | 2.0 | 2.0 | |
| (d) | Evaporated to 70°C (E70), % (v/v) .. | Report | Report | |
| | Reid vapour pressure (RVP), kPa | 45—75 | 45-75 | See Note 7 See Note 7 |
| Flexible volatility index (FVI=RVP+0,7 E70)— | | | | |
| (a) | FV1 (summer1), maximum | 89 | 95 | See Note 7 See Note 7 |
| (b) | FVM (winter1), maximum | 94 | 100 | |
| | Lead content, g Pb/l, maximum | 0.013 | 0.013 | D3116, D5059, D3237, D3348 |
| Induction period, minutes, minimum 360 | | | | |
| 4 | 360 | | | |
| 4 | D525 40 | | | |
| | Existent gum, mg 100 ml, maximum | 4 | 4 | |
| | ISO 6245, D381 131 | | | |

| | | | |
|---|------|------|--------------------------|
| Potential gum, (2,5 h at 100°C), mg/100 ml, maximum | 4 | 4 | D873 |
| 138 | | | |
| Sulphur content, % (m/m), maximum | 0.05 | 0.05 | D1266, D3120107, 243 336 |
| Benzene, vol % maximum | 5 | 5 | — — |
| Copper strip corrosion (3 h at 50°C), maximum | | | Classification |
| 1 Classification 1 D130 154 | | | |
| Total acidity ² , mg KOH/g, maximum | 0,03 | 0,03 | D3242 354 |
| Oxygen contents ³ , % (m/m), maximum | 3.7 | 2.8 | D4815 |
| — | | | |
| Oxidation stability | 3604 | 360 | |
| Contains a deposit control additive | Yes | Yes | |

- (1) Summer = 1 September to 3 March;
Winter = 1 April to 31 August.
- (2) Applicable only to fuels containing oxygenates.
- (3) Any alcohol blended into the fuel shall contain a minimum of 90% (m/m) ethanol with the balance I-propanol and n-propanol, and only trace quantities of other alcohols. Minimum alcohol content to be anhydrous alcohol of 99.5% v/v ethanol minimum (99% m/m).

$$\begin{aligned}
 3,7\% \text{ (m/m) oxygen} &= \text{approximately } 20\% \text{ (v/v) MTBE} \\
 &= \text{approximately } 9.5\% \text{ (v/v) ethanol} \\
 2,8\% \text{ (m/m) oxygen} &= \text{approximately } 15\% \text{ (v/v) MTBE} \\
 &= \text{approximately } 7.5\% \text{ (v/v) ethanol}
 \end{aligned}$$

4. Petrol which has to be stored for extended periods shall have an oxidation stability of not less than 480 minutes.

NOTES:

1. Ethers containing five or more carbon atoms per molecule may be included up to maximum concentration as indicated in the standard. The oxygen content of the blend will be determined by method ASTM D4815 (MTBE) and such other C5 ethers.
2. ASTM D1250/IP 200 (Standard guide for petroleum measurement tables) should be used for correlation of densities at 15°C and 20°C, respectively.

3. METHODS OF TEST:

3.1 For methods of tests use the applicable method as specified in last 2 columns of Table 1. Also see Annex F for full titles.

3.2 Reid vapour pressure

3.2.1 When testing fuels containing no alcohol, use test method ASTM D323 or IP 69.

3.2.2 When testing fuel blends containing oxygenates in the form of alcohols or alcohol/ether mixtures, use test method ASTM D4953.

Note— When alcohol is present in the fuel, the water introduced when test method ASTM D323 or IP 69 is used, will extract some of the alcohol causing low Reid vapour pressure values to be obtained.

3.3 Flexible volatility index (FVI):

The flexible volatility index is an additional parameter which characterizes the volatility properties of petrol, and is calculated using the formula:

$$FVI = RVP + 0,7 E70$$

Where

RVP is the Reid vapour pressure in kilopascals; and
E70 is the percentage of petrol, by volume, evaporated to 70°C.

BLENDING LEVELS

MINIMUM LEVEL OF ORGANIC OXYGENATES

Not less than ten percentum (10%) v/v.

TABLE 2 regs. 71, 74, 75 and 76

DIESEL STANDARD SPECIFICATIONS

| Characteristics | HSD Requirement | LDO Requirement | Testing Method |
|---|-------------------|-----------------|-----------------|
| Acidity, inorganic | Nil | Nil | IS 1448 P2 |
| Acidity, total mg of KOH/g, maximum | | | 0.50 IS 1448 P2 |
| Ash, per cent by mass, maximum | 0.01 | 0.02 | IP4 |
| Carbon residue (Ramsbottom) per cent by mass, maximum | 0.20 | 1.50 | IS 1448 P: 8 |
| Cetane number, minimum | 45 | | IS 1448 P: 9 |
| IP 41 ASTM D976/613 | | | |
| Pour point, maximum | 5 degrees Celsius | | IP 15 |
| Copper strip corrosion for 3 hours at 100 degrees Celsius | | 2 | 2 IP 15 ASTM |
| D 130 IP | | | |
| Flash point (Pensky Marterns) degrees Celsius | | 60 | ASTM D445 |
| Sediment, per cent by mass, max | | 0.03 | 0.01 ASTM |
| D473/1744 | | | |
| Total sulphur per cent (m/m), maximum | | | 0.55 IP 61 |
| Water content, per cent (v/v), maximum | | | 0.55 IP 74 |
| Total sediments mg per 100ml | 1.0 | | Appendix A |
| Distillation temperatures for 90% recovery degrees Celsius, max | | | |
| 362 | | | IP 123 |
| Final boiling point | 385 | | IP 123 |
| Density: minimum | 0.820 | | ASTM |
| maximum | 0.870 | | D1298 |

APPENDIX A reg. 76

TESTING FOR THE DETERMINATION OF TOTAL SEDIMENTS IN DIESEL FUEL

A.1 SCOPE

A1.1 This method prescribes a procedure of assessing the storage stability of distillate fuels by measurement of amount of insoluble material formed under test conditions.

A.2 OUTLINE OF THE METHOD

A.2.1 The fuel is stored in a glass bottle, shielded from light for 16 hours at 99°C and the amount of insoluble material formed is determined. The colour of the fuel before and after test is reported. Duplicate tests shall be carried out on each fuel.

A.3 APPARATUS

A.3.1 Bottles of heat-resistant glass: One litre capacity made of 3 mm nominal thick glass, conforming to dimensions given in Table A1 and Fig. 1. Soft glass shall not be used as it may inhibit the formation of sediment.

TABLE A.1: DIMENSIONS OF HEAT-RESISTANT GLASS

| | |
|---|------------------|
| Capacity | 1 litre |
| Total height (from the base to top of the neck) | 210 mm (approx.) |
| External diameter (at the bottom) | 104 mm (approx.) |
| Length of the neck | 42 mm (approx.) |
| Internal diameter of the neck (at the top) | 39 mm (approx.) |

A.3.2 Air oven: Controlled at $105 \pm 2^\circ\text{C}$.

A.3.3 Oil bath: Controlled at $99 \pm 0.5^\circ\text{C}$, of capacity sufficient to allow not less than ten litres of oil for first bottle and five litres for each additional bottle. The bath shall be fitted with a screen to shield the bottles from light while allowing access of fair air to the sample. The covering of the bottles shall be done either using a 250 ml lipped beaker or a 100 ml silica dish supported on a glass triangle. Both these covers shall be painted black. A suitable arrangement is shown in Fig 2.

A.3.4 Filtering medium: A gooch crucible as described in Fig 2 fitted with a Whitman glass fibre paper Grade GF/A of 3.2 cm diameter.

A.3.5 Filtering accessories: Holder for crucible approximately 4.5 cm in diameter, Buchner filtering flask, vacuum pump and manometer indicating a differential pressure of 125 to 300 mm Hg.

A.3.6 Analytical balance: Accurate to 0.1 mg.

A.3.7 Evaporation bath: Beaker and air-over.

A.3.8 Apparatus for measuring colour of petroleum products by ASTM colour scale.

NOTE: In case of non-availability of gooch crucible, a G4 sintered glass crucible may be used.

FIGURE 2

DIAGRAMMATIC VIEW OF OIL-BATH ASSEMBLY

A.4 MATERIALS

A.4.1 Normal heptane

A.4.2 Gum solvent: A mixture of equal volumes of analytical reagent grades of acetone, chloroform and methanol.

A.5 PROCEDURE

A.5.1 Wash with gum solvent and air dry all glassware which comes into contact with fuel.

CAUTION: The vapours are toxic

A.5.2 Then soak the glassware overnight in 98 per cent sulphuric acid. Pour off the sulphuric acid, allow to drain, rinse with tap water at least three times, then rinse with distilled water and finally with acetone. Dry all glassware with dust free air and store it in a clean oven, maintain at 105°C until required.

A.5.3 Fit two gooch crucible with the filter paper (smooth side down), or use G4 sintered glass crucibles, dry in an oven at 105°C for at least one hour and cool for one hour in a desiccator, until required.

A.5.4 Shake the test sample to ensure homogeneity and filter at least 900 ml through the unweighed crucible into a clean flask.

A.5.5 Determine the colour of the filtered fuel by ASTM method as in IS 1448 (P12).

A.5.6 Measure 700 ± 10 ml of filtered fuel into a clean bottle and shake the bottle vigorously for two minutes to generate the oil thoroughly. Place the un-stoppered bottle in the oil-bath at 99 ± 0.5°C with the level of fuel in the bottle at least 2.5 cm below the oil surface in the bath.

A.5.6.1 Position the shield and opaque covers as shown in Fig 2. Leave the bottle immersed for 16 ± 5°C.

A.5.7 Filter the fuel through the weighed crucible into a cleaned 1 litre Buchner flask maintained at a vacuum of 200 to 300 mm Hg.

Transfer the filtered fuel to a clean bottle, retaining this sample for determination of the colour.

A.5.8 Replace the crucible on the Bucher flask and transfer to the filter any sludge remaining in the bottle, emptying at least three washing and using a total volume of 150 ml of normal heptane.

A.5.9 Finally, wash the filter with 150 ml of normal heptane, remove the crucible and wipe the outside with clean dust-free material, and dry for one hour in an oven at 105 ± 2°C.

Cool the crucible in a dessicator for one hour and reweigh.

A.5.10 Determining the colour of the retained fuel (See A.5.7) by the methods prescribed in IS 1448 (P 12).

A.6 REPORTING

A.6.1 Reporting the following:

A.6.1.1 Filtered sediment, mg per 100 ml.

A.6.1.2 Colour of filtered fuel, AST > colour (See A.5.5).

A.6.1.3 Colour of filtered fuel after test, ASTM colour (See A.5.9).

TABLE 3 reg. 79

REQUIREMENTS FOR ILLUMINATING PARAFFIN

Characteristics Requirements Testing Method

Distillation:

Recovery at 200°C, v/v 40—60 IP 123

ASTM D 86

Final boiling point, °C (maximum) 280 ISO 3405

Residue, per cent per v/v (maximum) 2.0

Flash Point:

Abel, °C (minimum) 38 IP 170

Tag, °C (minimum) 38 ASTM D56

Smoke Point See 42 IP 57

Colour:

IP glass standard (maximum) 1.5 IP 17

Saybolt, minimum) +25 ASTM D156

| | | |
|-------------------------------------|----------|-----------|
| Sulphur Content: | | |
| % m/m (maximum) | 0.05 | IP 107 |
| Copper Corrosion: | | |
| (3h at 50°C); | 1 | IP 154 |
| ASTM scale classification (maximum) | | ASTM D130 |
| Density (at 20°C, kg/l | 0.75,080 | |
| Char value, mg/kg (maximum) | 10 | IP |
| ASTM D187 | | |

TABLE 4 reg. 80
SMOKE POINT

| Sulphur content, mass fraction% (m/m) | Smoke point: °C |
|---------------------------------------|-----------------|
| 0.000-0.015 | 25 |
| 0.016-0.032 | 27 |
| 0.033-0.05 | 29 |

APPENDIX B reg 81

QUALITY VERIFICATION OF ILLUMINATING PARAFFIN

A.1 QUALITY VERIFICATION

A1.1 When a purchaser requires on-going verification of the quality of illuminating paraffin, if it is suggested that, instead of concentrating solely on evaluation of the final product, he also direct his attention to the manufacture's quality system.

A1.2 If the illuminating paraffin does not bear the certification mark and no information about the implementation of quality control or testing during manufacture is available to help in assessing the quality of a consignment, and a purchaser wishes to establish by inspection and testing of samples of the final products whether a consignment of illuminating paraffin complies with this standard, the sampling procedure given in A2 can be applied.

A.2 SAMPLING AND COMPLIANCE WITH THIS STANDARD

A2.1 Sampling

A2.1.1 General: The sampling procedure given in A2.1.3 shall be applied in determining whether a lot complies with the relevant requirements of this standard. The samples so drawn shall be deemed to represent the lot.

A2.1.2 Definitions

A2.1.2.1 Defective: A test sample of a paraffin that fails in one or more respects to comply with the relevant requirements of this standard.

A2.1.2.2 Lot: That quantity of illuminating paraffin in containers bearing the same brand name or trade mark and batch identification, from one manufacturer, and submitted at any one time for inspection and testing.

A2.1.3 Samples for inspection and testing: After checking for compliance with the relevant requirements of 4, use the relevant sampling procedure described in ASTM D4057 and ASTM D4177 as appropriate to determine whether a lot complies with this

specification, and deem the samples so taken to represent the lot for the respective properties.

A2.2 Compliance with this standard: Deem the lot to comply with the relevant requirements of this standard if, on inspection of the containers or tankers in the lot and on testing of the sample taken in accordance with A2.1.3, no defect is found.

FIFTH SCHEDULE

PREPARATION, CONSTRUCTION AND MAINTENANCE OF STORAGE FACILITIES

PART I reg. 93

STORAGE TANKS FOR LIQUID FUELS

1. Storage tanks specifications

All Storage Tanks shall be made of mild steel or any other approved material designed and protected according to the standards approved by the Authority in conjunction with the Malawi Bureau of Standards.

2. Construction of storage tanks

(a) Storage tanks may be constructed entirely below, partially above or completely above the surface of the ground.

(b) Storage tanks entirely below the ground shall be covered with soil or any other material approved by the Authority to a minimum depth of three hundred millimetres with the exception of manhole covers.

(c) Where there is possibility of water supplies, courses or drainage systems being contaminated, in the event of serious leakage from the storage tank, such tank shall be completely surrounded by concrete of such thickness as the Authority may deem sufficient.

3. Modes of construction of storage tanks

(a) Storage tanks constructed partially above the surface of the ground may be set in any one of the following approved ways set out herein below.

(b) The storage tank may be left exposed in a pit excavated in the ground, the sides of which shall be carried out to easy slopes and any such pit must be capable of holding at least ninety per cent of the total holding capacity of the tanks of the brand of liquid fuel in question. Any such storage tank may be banded with clay or any other impermeable core as the case may be.

(c) Where the storage tank is not more than 13.7 metres in height, the same shall be sunk below the surface of the ground at a depth being not less than sixty per cent of its diameter and mounded over completely with soil to a minimum depth of three hundred millimetres, with the exception of the manhole covers.

(d) The storage tank may be sunk less than 1.5 metres below the surface of the ground and constructed and mounded as in paragraph (c) above and the soil shall be supported by retaining walls constructed in brick, concrete or any other material approved by the Authority:

Provided that where, in the event of serious leakage, there is a possibility of water supplies, courses or drainage systems being contaminated, the following additional conditions shall apply:

(i) Under the method provided for in paragraph (b) above, the floor and sides of the pit shall be formed of concrete unless otherwise approved by the Authority;

(ii) Under the methods provided for in paragraphs (c) and (d) above, the storage tank shall be constructed upon and mounded over with concrete of such thickness and composition as may be approved by the Authority or in its sole discretion, with puddle clay not less than three hundred millimetres in thickness.

(e) The storage tank may be constructed completely above the surface of the ground on the following conditions:

(i) The tanks shall be supported on brick, stone or concrete piers or by some other approved method.

(ii) The tanks shall be surrounded by a brick, stone or concrete wall or by an earth bund forming enclosure capable of holding the following capacities:

(A) in respect of bunds enclosing one tank, not less than ninety per cent of the tank capacity;

(B) in respect of bunds enclosing two tanks, not less than eighty per cent of the total capacity of the tanks;

(C) in respect of bunds enclosing more than two tanks, not less than seventy-five of the total capacity of the tanks in question;

(D) no water shall be allowed to accumulate in the enclosure;

(E) an air-space of not less than 2.5 per cent of the tanks' capacity, including the manhole, must be provided in the tanks to allow for expansion;

(F) provision of a fireproof roof over the unburied tanks where special conditions exist, such as danger from sparks; and

(G) tanks must be adequately protected from rust or corrosion.

(f) Where under the construction method in paragraph (e), in the event of serious leakage, there is a possibility of water supplies, courses or drainage systems adjacent to the installation being contaminated, the floor of the enclosure shall be formed of concrete or other material approved by the Authority and any such enclosure shall be drained by a pipe fitted with a valve actuated from the outside of the enclosure which shall always be kept closed except when actually in use.

4. Minimum distances

(a) The minimum distance between any storage tank and the boundary of the storage area shall be at least three metres and the minimum distance between storage tanks constructed partially above or completely above the surface of the ground shall also be at least three metres.

(b) The minimum distance between storage tanks constructed wholly below the surface of the ground and mounded over with soil to a depth of not less than three hundred millimetres shall be one metre.

PART II reg. 94

STORAGE SHEDS FOR LIQUID FUELS

1. Construction of Storage Sheds

(a) No storage shed shall be constructed and maintained otherwise other than in accordance with the provisions of these Regulations.

2. Mode of Construction and Maintenance of Storage Sheds

The construction and maintenance of all storage sheds for purposes of storing liquid fuels shall be in accordance with the following conditions—

(a) The storage sheds shall be constructed entirely of non-inflammable materials approved by the Authority.

(b) The storage sheds shall be at least one metre apart and shall be surrounded by clear space of at least sixteen metres in width.

(c) The storage sheds shall have doors which shall be constructed so as to open otherwise than inwards and which must be kept securely locked when the storage shed is not in use:

Provided that where the storage shed has a floor area exceeding nine square metres, it shall have at least two doors or other means of exit.

(d) All doorway sills and other openings of every storage shed shall be built up to a height of not less than one hundred and fifty millimetres above floor level of the shed or the floor shall be sunk to a depth of at least one hundred and fifty millimetres below the level of the ground, so that in either case no liquid fuels can flow out of the shed in the event of its escape from the receptacle in which it is contained.

(e) The storage sheds shall have adequate ventilation of such standard as the Authority may approve.

(f) Sufficient amounts of sand or dry earth and at least one approved fire extinguisher by the Authority shall be kept available in each storage shed for use in case of fire.

(g) No artificial light other than a filament electric lamp may be used within any shed:

Provided that artificial lighting and installation of the approved vapour-proof or gas-filled electric bulb may be used at a distance of not less than ten metres from the shed.

PART III reg. 95

STORAGE OF GAS

1. Construction of Gas Storage Plants

All gas storage plants shall be made of such material or materials and in such a manner as to comply with the internationally accepted best practices approved by the Authority in conjunction with the Malawi Bureau of Standards.

2. Installation of Gas Storage Plants

Subject to paragraph 1, every gas storage plant in Malawi shall be installed in open air and in an area protected by a storage shed or any other structure approved by the Authority.

3. Construction of Gas Storage Sheds

Every gas storage shed shall be constructed in the manner prescribed herein below—

(a) The roof shall be constructed in such a manner as to provide permanent ventilation by leaving the shed directly exposed to open air.

(b) The floor shall be recessed or filled so as to form a retaining space of sufficient capacity to contain at least seventy-five per cent of the gas therein.

(c) The shed shall be constructed far from other buildings and shall not be attached to any other building or buildings.

(d) The shed shall have approved and adequate protection from lightning.

(e) The shed shall be provided with such fire-fighting equipment which meets the approved standards.

4. Maintenance of Gas Storage Plants or Sheds

All gas storage plants or sheds shall be maintained in such a manner as to ensure utmost safety and to prevent gas leakages or unintentional opening of control valves.

5. Construction and Storage of Gas Cylinders

(a) All gas cylinders for compressed, dissolved or liquefied gas shall be constructed, marked and stored in accordance with the provisions of this Schedule.

(b) All gas cylinders shall be—

(i) made of approved material and of good construction, free from patent defects; and

(ii) fitted with approved and suitable pressure gauge.

(c) Every licensee shall store gas cylinders in the prescribed manner, and without prejudice to the generality of the foregoing, the licensee shall—

(i) store gas cylinders in such a manner as to protect them against excessive temperature variations, exposure to direct sunlight;

(ii) not store gas cylinders under conditions of continuous dampness;

(iii) keep gas cylinders in the upright position irrespective of their being charged or empty; and

(iv) provide to the Authority acceptable means of preventing violent shock if handled.

6. Marking of Gas Cylinders

All gas cylinders used for the storage or transportation of gas in Malawi shall be appropriately marked and labelled in legible letters and in English language and any other Malawian language approved by the Authority and stating—

(a) the name, trade name or trademark of the supplier or the vendor, as the case may be;

(b) the accurate description of the contents therein;

(c) the MBS mark signifying compliance with the Malawi Bureau of Standards Certification Marking Scheme Regulations; and

(d) the words "flammable" together with the corresponding symbol for labelling dangerous goods.