



Malawi Government

LAWS OF MALAWI

THE WATER RESOURCES ACT

(CHAPTER 72:03)

LAWS OF MALAWI

CHAPTER 72:03
WATER RESOURCES
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L.R.O: 1/1988

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CHAPTER 72:03

WATER RESOURCES

15 of 1969
29 of 1970
9 of 1979
20 of 1987

An act to make provision for the control conservation, apportionment and use of the water resources of Malawi and for purposes incidental thereto and connected therewith.

[3rd November, 1969]

PART I PRELIMINARY

- Short title 1. This Act may be cited as the Water Resources Act.
- Interpretation 2. In this Act, unless the context otherwise requires ----
“domestic purposes” includes the provision of water for household and sanitary purposes and for the watering and dipping of stock;
“easement” means a right to enter on the land of another for the purpose of constructing or maintaining works thereon, or storing the water thereon or carrying water under, through or over such land, or for all or any of such purposes;
“existing right” means any right to public water-----
(a) which at the commencement of this Act has been lawfully acquired, is possessed by, and is being beneficially exercised by, any person; or
(b) lawfully acquired by any person before the commencement of this Act for the purpose of supplying water to the public;

“natural resources” means land, soil and water in their physical aspects together with the natural vegetation associated therewith, and the normal balance between them;

“public water” means all water flowing over the surface of the ground or contained in or flowing from any river, spring or stream or natural lake or pan or swamp or in or beneath a watercourse and all underground water but excluding any stagnant pan or swamp wholly contained within the boundaries of any private land;

“underground water” means water naturally stored or flowing below the surface of the ground and not necessarily apparent on the surface of the ground;

“water right” subject to the provisions of section 8 includes any existing right;

“works” includes canals, channels, reservoirs, embankments, weirs, diversions, dams, wells (other than hand operated wells), boreholes, pumping installations, pipelines, sluice gates, filters, sedimentation tanks or other works constructed for or in connexion with the impounding, storage, passage, drainage, control, use or abstraction of public water, or the development of water power, or the filtration or purification of public water, or the protection of rivers and streams against erosion or siltation, or the protection of any work or in connexion with or for flood control or the conservation of rain water.

PART II

OWNERSHIP OF AND INHERENT RIGHT TO THE USE OF WATER

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| 3. | (1) The ownership of all public water is vested in the president.
(2) The control of all public water is vested in the Minister and such control shall be exercised in accordance with the provisions of this Act. | Ownership and control of public water |
| 4. | (1) There is hereby established a Board, to be known as the Water Resources Board, which shall, subject to any special or general directions of the Minister, exercise such powers and perform such duties as are conferred or imposed on it by this Act, or as the Minister may, for the better carrying out of the purposes of this Act, by writing under his hand, delegate to it.

(2) Any of the powers conferred or duties imposed on the Water Resources Board under this Act, may, unless the Minister otherwise directs, by resolution of the Board be delegated to Any member of the Board or to any committee, body, authority or person. | Water Resources Board |

- Schedule (3) The provisions of the Schedule hereto shall have effect as to the constitution and proceedings of, and otherwise in relation to the Board
- Prohibition Of use of water except with lawful authority 5.-(1) Subject as hereinafter provided, no person shall divert, dam, store, abstract or use public water or for any such purpose construct or maintain any works except in accordance with a water right granted or deemed to be granted under this Act :
- Provided that nothing in this section shall prevent the taking of public water for fighting fires.
- (2) Any person who diverts, dams, stores, abstracts or uses public water or who, for any such purpose constructs or maintains any works except under and in accordance with the provisions of this Act and of any other written law shall be guilty of an offence.
- Right to Public water purposes 6.-(1) Subject to the provisions of subsection (2) any person having lawful access to public water may abstract and use the same for domestic purposes :
- Provided that nothing in this subsection shall authorize the construction of any works.
- (2) Where in the opinion of the Board the use of public water for domestic purposes at any place is causing damage to the natural resources of the area in the vicinity of that place, it may, by notice in writing served on any person making use of the water at that place, direct that such person takes such measures as may be specified in the notice for the purpose of avoiding or mitigating such damage.
- (3) Without derogating from the generality of the provisions of subsection (2) a notice given in accordance with that subsection may direct that any user of water at any place shall not water more than the number of stock specified in the notice or that no more than a stated number of stock may be watered at that place or that not more than a stated gallonage may be abstracted.
- (4) Any person failing to comply with a notice given in accordance with subsection (2) shall be guilty of an offence.
- No prescriptive - rights to use of water 7. No person shall, after the commencement of this Act, acquire or be deemed to have acquired any right, property, privilege or interest to divert, dam, store, abstract or use any public water by reason of length of use or elapse of time, and no conveyance, lease or other instrument shall be effectual to convey, assure, demise, transfer or vest in any person any property or right or any interest or privilege in respect of any public water, and from and after such commencement no, such property, right, interest or privilege shall be acquired otherwise than in accordance with this Act.

PART III

RECORDING OF EXISTING RIGHTS

- 8.- {1) Every person claiming an existing right may, within six months from the day on which this Act comes into operation, notify the Minister of such claim
- Notification of existing rights
- (2) Every existing right shall determine if the person entitled thereto fails to notify the Minister in accordance with subsection (1) of the existence of that right before the expiration of the period allowed for notification :
- Provided that such notification shall not be required in the case of a subsisting water licence issued by the Minister since the 1st April, 1967, which licence shall be deemed to be a water right issued under this Act.
- 9.- {1) On the receipt by the Minister of a notification under Minister to section 8 he shall, after making such investigation as he considers advisable, and if he is satisfied that an existing right has been proved to exist, record such right and issue a certificate in respect thereof.
- Minister record rights
- (2) On the recording of an existing right in accordance with subsection (1) the existing right shall be deemed to be a water right granted under this Act.

PART IV

GRANT OF WATER RIGHTS

10. (1) The Minister may grant to any person the right to divert, dam, store, abstract, or use public water from such sources in such quantity, for such period, whether definite or indefinite, and for such purpose as may be specified in the water right subject to such terms and conditions as he may deem fit.
- Grant of water rights
- (2) Application for the grant of a water right shall be made to the Board which shall give notice of the same in the prescribed manner .
- (3) Any interested person may notify the Board within such period as may be prescribed that he objects to the grant of a water right and shall specify the grounds of such objection, and shall, if he so requires, have a right to be heard thereon by the Board.
- (4) The Board shall consider every application and any objections made to it in respect thereof and may, after consulting such persons and authorities, if any, as it may decide to consult, submit the application together with its recommendations to the Minister, and the Minister may grant or not grant the right in his discretion.

PART V

**REVISION, VARIATION, DETERMINATION AND
DIMINUTION OF WATER RIGHTS, POLLUTION
OF PUBLIC WATER**

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| Suspension or variation of water rights on account of drought etc. | 11. | (1) | Where in the opinion of the Minister the supply of or variation public water from any source or in any area is insufficient or is likely to become insufficient, the Minister may at any time and account of from time to time, by notice in writing to the holders of water drought etc. rights, suspend or vary all or any rights to abstract or use water from that source, or in that area, for such period as he may deem necessary, and thereupon such rights shall cease for the period of suspension or shall be exercisable only as so varied, as the case may be. |
| | | (2) | No right to compensation shall arise or accrue by reason of the suspension or variation of a water right under this section. |
| Determination or Diminution of rights where water required for public purpose | 12. | (1) | Where the Minister is satisfied that public water is required for a public purpose he may, by notice in writing addressed to the holder of any water right, determine or diminish that right to the extent that such water is required for the aforesaid public purpose, and thereupon the right shall cease or shall be exercisable only as so diminished as the case may be. |
| | | (2) | A declaration in writing under the hand of the Minister that public water is required for a public purpose shall be conclusive evidence of that fact. |
| | | (3) | The holder of any right shall be entitled to receive such compensation in respect of the loss resulting from the determination or diminution of the right under this section as may be reasonable in all the circumstances, and in the absence of agreement the High Court shall determine the amount of such compensation. |
| Where quantity unspecified
Minister may specify quantity | 13. | | Where any right to the use of an unspecified quantity of public water subsists, the Minister may at any time specify the quantity which may be used, and thereafter the water right shall be deemed to be so varied :

Provided that the Minister shall, before so specifying give the holder of the right the opportunity of making representations thereon, and shall take into consideration any such representations. |
| Determination for breach of a condition | 14. | | Where the holder of a water right has failed to comply with any condition, express or implied, subject to which the right was granted, or has abstracted or used public water for a purpose not authorized by the grant, the Minister may by notice in writing addressed to the holder require him to remedy such default within |

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such period as shall be specified in the notice, and if the holder fails or neglects to remedy the default within the period specified the Minister may declare the right to be determined.

15. If at any time the Minister has reason to believe that the holder of a water right has not, during the preceding two years, made full beneficial use of that right, he may, after giving the holder of the right opportunity of making representations, by notice in writing addressed to such holder and having regard to the investment in capital works and the long term national interests involved in the undertaking concerned-
- (a) declare the right determined; or
(b) declare the right diminished or modified in such respects as may be specified in the declaration.
16. (1) Any person who, save under the authority of this Act or any other written law, interferes with or alters the flow of or pollutes or fouls any public water, shall be guilty of an offence.
- (2) For the purposes of this section the polluting or fouling of public water means the discharge into, or in the vicinity of public water, or in a place where public water is likely to flow, of any matter or substance likely to cause injury whether directly or indirectly to public health, livestock, animal life, fish, crops, orchards or gardens which are irrigated by such water or any product in the processing of which such water is used or which occasions, or which is likely to occasion, a nuisance.

PART VI

MISCELLANEOUS POWERS

17. (1) Where any person who is the holder of a water right or who has applied for the grant of a water right is unable fully to enjoy the benefit of the right without an easement and has failed to secure an easement by agreement with the owner or occupier of the land over which the easement is required he may apply to the Board for the creation of such easement.
- (2) Upon the receipt of any such application the Board shall serve notice of the application on the owner or occupier of the land over which an easement is sought and on any other persons known to be interested in the land.
- (3) Any interested person may notify the Board that he objects to the creation of the easement under this section or that he desires to be heard on the subject of compensation.
- (4) The Board shall consider any objection and shall give an opportunity of being heard to all persons who so require, and

L.R.O. 1/1970 .,

shall thereafter submit such application together with its recommendations to the Minister who may in his discretion by a certificate in the prescribed form create such easement as he considers appropriate with or without compensation, or may refuse to create an easement, or may make ancillary orders in connexion , therewith.

- (5) If the person enjoying the benefit of an easement fails to pay such compensation as directed or to comply with any ancillary orders made by the Board within such time as is therefore allowed by the Board, the Minister may by notice in writing to that person determine the easement.
- (6) Compensation due under this section may be sued for as a civil debt.

Right to call
for information

18. The Board may, for the purpose of this Act, call upon any person to give information on such matters and in such manner as may be prescribed.

Power to
inspect
works etc.

19. (1) The Board may, at all reasonable times, enter upon any land and may inspect any works constructed or under construction thereon and may ascertain or cause to be ascertained the amount of water abstracted or capable of being abstracted by means of such works or otherwise.
- (2) If in the opinion of the Board any works are so constructed, maintained or used or are being so constructed as to constitute a danger to life, health or property or damage to the natural resources of the area, it may require any person for the time being enjoying the benefit of those works to carry out such demolitions or to change the use of the works in such manner as it considers necessary and may by notice in writing suspend any water right until it is satisfied that such requirements have been fulfilled and thereupon the right shall cease for the period of the suspension.
- (3) No compensation shall be payable to the owner or occupier i of any land by reason that entry has been made upon such land in pursuance of the provisions of subsection (I) of this section.

Power to
require demolition
of unlawful
works

20. (1) The Board may by notice in writing require any person -
- (a) who has constructed or extended, or caused to be constructed or extended any works contrary to any provisions under which such person was required or authorized to construct or extend the same or cause them to be constructed or extended; or
 - (b) whose water right in respect of which any works are in existence has been determined under the provisions of this Act or has otherwise come to an end,

to modify, demolish or destroy such works within such period, not being less than thirty days, as may be specified in the notice.

- (2) If the person fails to comply with a notice served on him under subsection (I), the Board may cause such works to be modified, demolished or destroyed and recover the cost of the modification, demolition or destruction from the person in default by civil suit.
 - (3) Any person who fails to comply with a notice given under subsection (1) shall be guilty of an offence.
21. (1) The Board may at all reasonable times enter upon any land for the purpose of making such investigations and surveys as the Board considers necessary in the interest of the conservation and best use of water in Malawi, and may establish and maintain or cause to be established and maintained on any such land, without other authority than this Act, hydro meteorological stations and other works for the purpose of obtaining and recording information and statistics as to the hydro meteorological conditions of Malawi. Power to establish hydrometeorological stations and make surveys
- (2) No compensation shall be payable to the owner or occupier of any land by reason that entry has been made upon such land in pursuance of the provisions of subsection (1) of this section but the owner or occupier of such land shall be entitled to such compensation for all damage done and for any land occupied for the construction of works as the Minister may determine to be reasonable in all circumstances.
- (3) Any person interfering with or damaging any such station or works constructed under the provision of subsection (1) shall be guilty of an offence.
22. (1) The Minister may, in the public interest declare any part of Malawi to be a controlled area for the purposes of this Act. Declaration of controlled area
- (2) Within a controlled area the Minister may establish a comprehensive scheme for the development of the natural resources of such area.
- (3) For the purpose of establishing such a comprehensive scheme the Minister may, after giving the holder of the right opportunity of making representations, in respect of any subsisting water right within a controlled area –
- (i) declare the right determined; or
 - (ii) declare the right diminished or modified in such respects as may be specified in the declaration;

L.R.O. 1 /1988

(iii) grant the holder of such right a new water right upon such terms and conditions as the Minister may in his absolute discretion deem fit :

Provided that the holder of any right shall be entitled to receive compensation in respect of any loss resulting from the determination or diminution of the right as provided in section 12 (3).

- (4) The Minister may construct and maintain, or cause to be constructed and maintained, such works as may be expedient for *the better control of land and water within a controlled area.*
- (5) The Minister may levy charges upon the beneficiaries of any comprehensive scheme within a controlled area in order to defray expenses of such construction or maintenance or both, and of the services appertaining thereto.
- (6) The Minister may create an authority for the purpose of administering the natural resources of the controlled area, and for the construction and maintenance of any necessary works, for making necessary payments and receiving revenue in connexion with the administration and betterment of the natural resources of the controlled area.
- (7) The authority created under subsection (6). above shall be subject to the Minister's general and special directions.

PART VII

MISCELLANEOUS

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| Service of notices
20 of 1987 | 23. | Any notice required to be given under this Act shall be deemed to be sufficiently served if sent by prepaid registered post addressed to the person to whom it is required to be given at his last known address, or if such person is a company, at its registered office or principal office or place of business in Malawi, and in the case of the Minister if addressed to him at the Ministry of Works Private Bag 316, Lilongwe 3. |
| Regulations | 24. | The Minister may make regulations- <ol style="list-style-type: none"> (a) prescribing anything which is required to be, or which may be, prescribed under this Act; (b) providing for forms to be used and the fees to be paid in respect of any matter required or permitted to be done under this Act; (c) providing for the advertisement of applications for the use of public water and for the giving of notice to interested persons (d) providing for and regulating the making of objections and the time within which such objections shall be made ; (e) providing for the formation, functions and conduct of local associations of public water users (f) in the case of a water right or existing right enjoyed by an association of persons, regulating the division and distribution of water between those persons; (g) prescribing the matters on which and the manner in which persons may be required to give information as provided in section 18 ; (h) generally for the better carrying out of the provisions of this Act. |

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| 25. | (i) A person who is guilty of an offence under section 5
(2) shall be liable to a fine of K1,000 and to imprisonment for one year.
(2) A person who is guilty of any other offence under this Act shall be liable to a fine of K500 and to imprisonment for six months. | Penalties |
| 26. | Notwithstanding anything contained in any other written law, any water right or right to regulate, control or interfere in any way with any public water granted or recognized by or under any other written law shall, subject to notification of the Minister under section 8, be deemed to be a right granted or recognized under this Act, and may be terminated varied or renewed in accordance with this Act, and any power or duty conferred or imposed on a Minister or any other person or authority under any written law to grant or recognize any such right or to terminate, vary, or renew any such right shall be exercised or performed only with the concurrence of the Minister responsible for Water acting on the advice of the Board. | other laws |

SCHEDULE

(s. 4 (3))

CONSTITUTION AND PROCEEDINGS OF BOARD

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| 1. | Membership of the Board shall be comprised as follows-
(a) two representatives of the Ministry responsible for Water;
(b) a representative of the Office of the President and Cabinet;
(c) a representative of the Water Resources Division
(d) a representative of the Ministry responsible for Trade and Industry; and
(e) not more than six other members as the Minister may determine, appointed by the Minister in his discretion. | Constitution Board
29 of 1970
9 of 1979
20 of 1987 |
| 2. | The Minister shall appoint one of the members to be Chairman of the Board, and members of the Board shall elect one of their number to be Deputy Chairman, who shall in the absence or temporary incapacity of the Chairman perform the functions of Chairman. | Chairman and Deputy Chairman |

L.R.O.1/1988

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| Tenure of office | 3. | (1) | The Chairman and the members appointed under paragraph |
| | 1 | (e) | shall, subject to the Minister's power, for sufficient reason, earlier to terminate their appointments, hold office for three years, and shall be eligible for reappointment |
| | | (2) | Any member of the Board may at any time resign by giving notice in writing to the Minister, and from the date specified in the notice he shall cease to be a member of the Board. |
| | | (3) | If any member of the Board is, without the permission of the Chairman, or in the case of the Chairman without the permission of the Minister, absent from more than three consecutive meetings of the Board, or is absent from Malawi for a period exceeding six months he shall cease to be a member of the Board. |
| Casual vacancies | 4. | | Where any member of the Board ceases to be a member before the normal expiration of his term of office, the Minister may appoint another member in his place to hold office until such first named member's term of office would have expired had he not ceased to be a member as aforesaid. |
| Quorum and procedure | 5. | (1) | The Board shall meet at such times and such places as may be necessary or expedient for the transaction of business. |
| 29 of 1970
20 of 1987 | | (2) | At any meeting of the Board one representative each from the Ministry of Works, Office of the President and Cabinet, the Water Resources Division and one other Member shall constitute a quorum. |
| | | (3) | Decisions of the Board shall be in accordance with the vote of the majority of members present and voting thereon, but in the event of an equality of votes the Chairman or the person performing the functions of Chairman shall have a casting vote <i>in</i> addition to his deliberative vote. |
| | | (4) | The Board may in its discretion invite any person to attend a meeting of the Board, and such person may, with the consent of the Chairman or the person performing the functions of Chairman, speak but shall have no power to vote at that meeting. |
| | | (5) | Subject to the provisions of this paragraph and to any directions given by the Minister, the Board may regulate its own procedure. |
| Establishment of committees
29 of 1970 | | (6) | The Board shall have the power to appoint committees to perform such duties as the Board may delegate to them. |
| Remuneration
29 of 1970 | 6. | | Members of the Board and Committees may be paid out of funds provided by Parliament such expenses as the Minister may from time to time determine. |

Water Regulations

[Subsidiary]

SUBSIDIARY LEGISLATION

WATER REGULATIONS

under s. 24

G.N.
230/1969
117/1971
185/1975
107/1977

1. These Regulations may be cited as the Water Regulations. Citation
2.
 - (1) Every application for a grant in respect of surface water shall be made in Form WRB. 1 specified in the First Schedule hereto. Grant of water right
G.N.
107/1977
 - (2) A person intending to apply for a grant in respect of ground water shall, before making the application, submit a notification in Form WRB. 1A specified in the First Schedule hereto.
 - (3) Every application for a grant in respect of ground water shall be made in Form WRB. 2 specified in the First Schedule hereto.
 - (4) A grant by the Water Resources Board shall:-
 - (a) in respect of surface water, be made in Form WRB. 3 specified in the First Schedule hereto; and
 - (b) in respect of ground water, be made in Form WRB. 4 specified in the First Schedule hereto.
 - (5) For the purposes of this Regulation, "grant" means a grant of water right under section 10 of the Act.
3.
 - (1) The following covenants on the part of the grantee shall, unless otherwise expressly stated therein, be implied in every grant Implied covenants in grant
 - (a) to pay the rent reserved by the grant on the day and in the manner therein provided
 - (b) to erect any works required for the abstraction of water (hereinafter called the "works") in a substantial and workman like manner to the satisfaction of the Minister and so as to cause no unnecessary damage or disturbance to the bed, banks or surrounds of the river or stream (hereinafter called the "said river or stream") from which abstraction is authorized;
 - (c) not to discharge or allow to be discharged into the said river or stream:-
 - (i) any water of less purity than, or of a temperature, sensibly differing from the water in the said river or stream, or
 - (ii) any substance or matter which prejudicially affect the said river or stream or any fish contained therein which shall be or cause a nuisance;

L.R.O.1/1978

[Subsidiary]

Water Regulations

- (d) for the purpose of bilharzia and malaria control to keep and maintain the margin of the works and all water channels leading there from to an appropriate depth free of all vegetation and to do all other suitable measures that may be necessary to prevent the collection of pools of water in the vicinity of the works;
 - (e) not to assign the grant without the previous consent in writing of the Minister;
 - (f) to indemnify and keep indemnified the Minister against all actions, claims and demands which may be brought or made against the Minister by reason of anything done by the grantee under the authority of the grant; and
 - (g) within six months after the expiration or prior termination of the grant and if requested by the Minister so to do, to remove the works and to restore the land on which the works were erected to the same or as good a state as it was immediately before the works were constructed or in default of so doing to repay to the Minister such costs and expenses as may be incurred by him in effecting such removal and restoration
- (2) For the purposes of this regulation "temperature sensibly differing" shall mean a difference in temperature which can be appreciated by the senses without the use of a thermometer.

Implied condition in grant

4. The following conditions shall, unless expressly excluded there from, be implied in every grant -
- (a) a grant shall not limit in any way the exercise of the existing or future water rights vested in the Minister nor imply any guarantee that the quantity of water referred to is or will become available;
 - (b) the water used under a grant and returned to any stream or body of water shall not be polluted with any matter derived from the course of the water to such an extent as to be liable to cause injury or damage whither directly or indirectly to the health of the public or to livestock, animals, fish, crops, orchards or gardens by the use of consumption of or irrigation by such water or to any project in the processing of which such water is used;
 - (c) all reasonable precautions shall be taken by the grantee to the satisfaction of the Water Resources Board to prevent accumulation in any river, stream or watercourse of, silt, sand gravel, stones, sawdust, refuse, sewerage, waste or any other substance which may injuriously affect the use of such water; and
 - (d) a grant shall be revocable by the Minister at any time in the event of the non-compliance by the grantee with any of the covenants on his part therein contained or implied.
5. The following additional conditions shall, unless otherwise expressly stated in the grant, be implied in every grant for mining, industrial purposes or generation of power-
- (a) the water used shall be returned, if reasonably practicable, to the stream or body of water from which it was taken or to such other stream or body of water as the Water Resources Board may direct; and
 - (b) the water used shall, insofar as the use to which it is to be put allows, be returned substantially undiminished in quantity

Implied conditions in grant for mining, etc.

L.R.O.1978

- Water Resources*
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| 6. | (1) | The Water Resources Board shall, on receipt of an application for a grant under section 10 and before making such grant, and may on receipt to any other application under the Act in respect of which in its opinion public notification should be given, cause to be published in the <i>Gazette</i> and in at least one newspaper circulating in Malawi in such manner as it may deem necessary a notice giving the purport of the application and inviting objections to be submitted within a period of 30 days from the date of publication | [Subsidiary]
Advertisement
of notice
regarding
application
for grant etc. |
| | (2) | Objections made in response to a notice under subsection (1) shall be submitted in writing to the Water Resources Board within the time specified and shall state-
(a) the name and address of the objector;
(b) the matter to which objection is made;
(c) the grounds of the objection;
(d) the objector's interest in the matter; and
(e) whether the objector desires to make a personal representation to the Water Resources Board. | |
| | (3) | It shall be within the discretion of the Board to adjudicate upon any objection made without hearing any personal representations. | |
| | (4) | No application in respect of which a notice has been given under sub regulation (1) shall be considered by the Water Resources Board until the expiration of 30days after the publication of such notice. | |
| 7. | (1) | Every application for an easement shall be in form WRB.5 in the First Schedule hereto. | Easement |
| | (2) | Every certificate of easement shall be in form WRB.6 in the First Schedule hereto. | |
| | (3) | When any certificate of easement has been granted a copy of such certificate shall be forwarded by the Water Resources Board to every person who is known to have an interest in the land affected by such easement and to the Deeds Registrar. | |
| 8. | (1) | Any certificate of easement granted by the Minister shall lapse -
(a) if the works authorized thereby are not completed and the , water utilized within one year from the date of grant or within -such further period as the Water Resources Board may allow;
(b) if at any time the grant is not substantially made use of in accordance with its terms for a continuous period of two years; or | Lapse of
easement |

L.R.O.1/1972

[Subsidiary]

Water Resources

(c) on the expiration (unless renewed) or prior determination of the grant for the exercise of which the easement has been granted.

(2) On the lapse of a certificate of easement under sub regulation

(1)- (a) any works constructed by the grantee on the lands of another person shall, where the grantee is the sole user, if not removed by the grantee within six months from the date of expiration or termination, become the property of such other person unless otherwise decided by the Water Resources Board;

(b) the Water Resources Board shall notify all persons known to be interested in the land affected by the easement and the Deeds Registrar that the easement has lapsed.

Application
for and grant
of certificate
of existing rights

9.-(1) Every application for a certificate of existing rights under section 9 shall be in Form WRB.1 in the First Schedule hereto in respect of surface water and in Form WRB.2 in the first Schedule hereto in respect of ground water.

(2) Every certificate of existing rights shall be in Form WRB.3 in the First Schedule hereto in respect of surface water and in Form WRB.4 in the First Schedule hereto in respect of ground water.

Fees and rents

10. The fees and rents payable in respect of grants easements, etc. shall be as are specified in the Second Schedule hereto:

Provided that-

(i) no annual rents shall be payable in respect of dams used only for conservation purposes and no water is abstracted; and

(ii) no annual rents of any kind shall be payable in respect of the abstraction of water for household purposes only at no charge to the users thereof.

Water Regulations

[Subsidiary]

FIRST SCHEDULE

FORM WRB.1

APPLICATION FOR A GRANT OF WATER RIGHT/CERTIFICATE OF EXISTING WATER RIGHTS*

(SURFACE WATER ONLY)

This form is to be submitted in triplicate, to The Chairman of the Water Resources Board, P.O. Box 30026, Lilongwe 3.

NOTES: 1. This form is applicable only for applications involving the diversion, extraction or use of surface water and is not applicable to ground water-application for which should be made on form WRB.2.

2. Parts I, II and III are to be completed by all applicants. Schedules A, B, C, D, E, and F to be completed as appropriate.

3. All applications must be accompanied by Maps/plans (see section 18).

4. Instructions for completing this form are given on page 28.

5. Only Part I should be completed in respect of applications for renewals of an existing grant under identical conditions.

*Delete as appropriate.

PART I

(1) Full name/s of applicant/s	
(2) Address - Residential - Postal	
(3) *Give details of existing. (If space is not sufficient please give details on a separate sheet attached to the application.)	
(4) State whether - (a) Owner	

NOTE: This paragraph is only applicable to applications to record an existing right under the Act

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[Subsidiary]

Water Regulations

<p>(5) (b) Manager (c) Agent If (b) or (c) give names and address of owner. Name and location of farm, estate or holding for which water is required.</p>	
<p>(6) Particulars of land - (a) State freehold or leasehold (b) If leasehold give date of expiry of lease (c) Registered No. and date of registration (d) Acreage</p>	
<p>(7) Name or description and type of body of water from which the water required is to be diverted, stored or used.</p>	
<p>(8) Is the body of water described above situate in, or does it abut to, or flow in or out of Customary Land. State which.</p>	
<p>(9) Describe - (a) The point of abstraction or diversion and/or (b) The point of storage and (c) The point of use</p>	
<p>(10) State maximum amounts of water required under the various headings (Fuller details should appear in Schedules A, B, C, D and E as appropriate.)</p> <p>(a) Domestic purposes (b) Public purposes (c) Industrial purposes (d) Power purposes (including drive water for ram) (e) Irrigation</p>	<p>QUANTITY OF WATER REQUIRED GALLONS PER DAY</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>(f) Other (give details)</p>	<p>.....</p> <p>.....</p> <p>.....</p>
<p>TOTAL</p>	<p>.....</p> <p>.....</p> <p>.....</p>

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[Subsidiary]

PART II

METHOD OF DIVERSION/EXTRACTION

<p>11. DIVERSION BY GRAVITATION by means of a canal and/or pipe)</p>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="width: 10%; text-align: center;">Feet</th> <th style="width: 10%; text-align: center;">Inches</th> <th style="width: 10%; text-align: center;">Inches</th> </tr> </thead> <tbody> <tr> <td>Width at bottom</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Width at full supply level</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Depth of water at full supply level</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Length</td> <td></td> <td>Miles/feet</td> <td></td> </tr> <tr> <td>Gradient, fall in 100 ft.</td> <td></td> <td></td> <td>feet</td> </tr> <tr> <td>Average velocity in feet per second</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Estimated discharge at full supply depth</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Materials of which canal is constructed</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Feet	Inches	Inches	Width at bottom				Width at full supply level				Depth of water at full supply level				Length		Miles/feet		Gradient, fall in 100 ft.			feet	Average velocity in feet per second				Estimated discharge at full supply depth				Materials of which canal is constructed			
	Feet	Inches	Inches																																		
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<p>(a) Details of canal</p>																																					
<p>(b) Details of pipe</p>	<table style="width: 100%; border-collapse: collapse;"> <tbody> <tr> <td style="width: 80%;">Internal diameter</td> <td style="width: 20%;">inches</td> </tr> <tr> <td>Length</td> <td>miles/feet</td> </tr> <tr> <td>Hydraulic gradient, fall in 100 feet</td> <td>feet</td> </tr> <tr> <td>Description of material of pipe and thickness thereof.....</td> <td></td> </tr> </tbody> </table>	Internal diameter	inches	Length	miles/feet	Hydraulic gradient, fall in 100 feet	feet	Description of material of pipe and thickness thereof.....																													
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Length	miles/feet																																				
Hydraulic gradient, fall in 100 feet	feet																																				
Description of material of pipe and thickness thereof.....																																					
<p>(c) Details of any other structures such as syphons, flumes, tunnels, etc.</p>																																					
<p>(d) (i) Will any of the above canals, pipes and/or structures be situated o buildings of other land owners? (ii) If the answer to (i) is yes give details of all land or lands affected.</p>	<p style="text-align: center;">Yes/No</p>																																				

L.R.O.1/1970

12. DIVERSION BY PUMPING
(including by means of a ram*)

Fill particulars.

*In the case of a ram omit

(b), (c) and (e). Questions (f),
(g) and (h) refer to the drive pump.
Also driving machine complete
Schedule E.

(a) Type of pump

(b) Type of driving machine and fuel used

(c) Brake horse power of (b) B.H.P.

(d) Approximate elevation of pump above
sea-level Feet

(e) How pump is connected to driving
machine

(f) Internal diameter of suction main..... inches

(g) Height of suction..... feet (maximum)

(h) Length of suctionpipe feet

(i) Height to which water is to be lifted above pump
feet

(j) Internal diameter of delivery pipe..... inches

(k) Length of delivery pipe feet feet

(l) Pumping hours per dayhours

(m) Quantity of water to be pumped when plant is
working galls. per hour

(n) (i) Will the pump and its accessories
be situated on holding of other land-owners.

Yes/No

(ii) If the answer to (i) is yes give details of all
other land/s affected.

PART III

13. POLLUTION

Would the water now applied for be used for
any purpose or in any process that will increase
its burden of silt gravel or boulders or cause it to
be injurious directly or indirectly to public
health to stock, to fish, or to crops or gardens
irrigated with such water ? If the answer to the
above is "Yes" describe fully what steps are
proposed to render the effluent and the residue
of it innocuous and pure before returning it to
the stream.

Yes/No

LAWS OF MALAWI

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[Subsidiary]

- | | | |
|-----|---|--------------|
| 14. | State the numbers and details of any other Grants of Water Rights held in respect of the land described in para. (6).
If nil state "Nil". | |
| 15. | State the estimated period of construction of the works. | Months |
| 16. | State the period after the completion of the works when it is estimated that all the water now applied for will be beneficially used. | |
| 17. | State the period for which the grant is required. | |
| 18. | The following Map Nos. and Plan Nos. are sent herewith in triplicate and are hereby declared to form part of the application. | |
| 19. | The address(es) of the owner(s) of the land(s) which may be affected by the proposed works and whose name(s) and holding(s) is/are shown on the map referred to in paragraph (18) above is/are given in the schedule attached hereto. If no lands are affected, state "Nil". | |
| 20. | The following reports and/or documents are sent herewith in support of my application | |
| 21. | I agree to supply any further information which may be required by the Water Resources Board. | |
| 22. | *I enclose herewith crossed cheque, Postal Order/Money Order No. for K2 to cover the prescribed fee for this application and undertake to pay the Malawi Government on demand the cost of insertion in the Government <i>Gazette</i> and in at least one newspaper circulating in Malawi of a notice requiring any person objecting to the issue of a Grant of Water Rights lodge such a complaint with the Chairman of the Water Resources Board. | |

NOTE: This paragraph is not applicable to applications to record an existing right under the Act

.....
Signature of applicant or duly authorized agent

L.R.O. 1/1976

Date

Copies of the following Schedules are attached*

- A Domestic purposes
- B Public purposes
- C Industrial purposes
- D Irrigation
- E Use of Water to generate power
- F Construction of a Dam

*Delete as appropriate.

SCHEDULE A

DOMESTIC PURPOSES

State whether water is required for:	QUANTITY OF WATER REQUIRED GALLONS PER DAY
(a) Household and sanitary use:	
(i) No. of low density houses } }	
(ii) No. of occupants of medium } density houses }
(iii) No. of occupants of high } density houses }	
(b) Watering stock:	
(i) No. of large stock }	
(ii) Type of large stock } } }
(iii) No. of small stock }	
(iv) Type of small stock } } }	
(c) Cattle and sheep: No. of dips	
(d) Other essential requirements or farming operations which are not of an industrial nature. State use(s) to which water will be put

TOTAL

.....

--	--

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SCHEDULE B

PUBLIC PURPOSES

<p>Fill in appropriate space if water is required for-</p> <p>(a) Municipal, township and community use or supply of water to persons other than the operator in consideration of payment thereof.</p> <p>(b) Any other use other than (a) above or covered by another schedule</p> <p>(c) TOTAL water required for public purposes.</p> <p>(d) When water is required under (a) above the following information should be supplied as far as possible-</p> <p style="padding-left: 40px;">(i) Estimated population at present</p> <p style="padding-left: 40px;">(ii) Estimated population 5 years hence</p> <p style="padding-left: 40px;">(iii) Estimated population 10 years hence</p> <p style="padding-left: 40px;">(iv) Estimated population 20 years hence</p> <p>(e) When water is required under (b) above give details of use to which water is to be put.</p> <p>(f) State whether water is to be supplied to any person, other than the applicant, in consideration of payment thereof. State "Yes" or "No".</p>	<p style="text-align: center;">QUANTITY OF WATER REQUIRED GALLONS PER DAY</p> <p>PRESENT *.....</p> <p style="text-align: center;">YEARS HENCE</p> <p>.....</p> <p>.....</p> <hr style="width: 20%; margin: 0 auto;"/> <p>.....</p> <p>*Fill in the number of years hence upon which your estimate is based. If applying now for a Grant covering a greater quantity of water than is at present required, the estimate of number of years should correlate to the quantity of water applied for.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 33%;"></th> <th style="width: 33%; text-align: center;">Low Density No. of Houses</th> <th style="width: 33%; text-align: center;">Medium Density No. of Occupants</th> <th style="width: 33%; text-align: center;">High Density No. of Occupants</th> </tr> </thead> <tbody> <tr> <td style="padding-left: 40px;">(i) Estimated population at present</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> </tr> <tr> <td style="padding-left: 40px;">(ii) Estimated population 5 years hence</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> </tr> <tr> <td style="padding-left: 40px;">(iii) Estimated population 10 years hence</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> </tr> <tr> <td style="padding-left: 40px;">(iv) Estimated population 20 years hence</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> <td style="text-align: center;">.....</td> </tr> </tbody> </table>		Low Density No. of Houses	Medium Density No. of Occupants	High Density No. of Occupants	(i) Estimated population at present	(ii) Estimated population 5 years hence	(iii) Estimated population 10 years hence	(iv) Estimated population 20 years hence
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(iv) Estimated population 20 years hence																		

L.R.O. 1/1970

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Water Resources

[Subsidiary]

Water Resources

SCHEDULE C

INDUSTRIAL PURPOSES

State the quantity required in the appropriate space-	Quantity of water required gallons per day	The normal and maximum number of hours per day factory will be working	Periods during the year when water will be required
PURPOSE		Normal	Maximum
(a) Steam raising, cooling and condensing water
(b) Manufacture			
(i) Process water
(ii) Dilution of effluent
(c) Coffee pulping and washing
(d) Other purposes
(e) TOTAL water required for industrial purposes
(f) If water is required for (b) or (d) above give details of use to which water is to be put.

SCHEDULE D

IRRIGATION PURPOSES

State the following-	CROP	AREA (ACRES)	GROWING SEASON
(a) Crops to be irrigated and area of each crop			
	(1)to
	(2)to
	(3)to
	(4)to

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Water Resources

CAP. 72.03

Water Resources

[Subsidiary]

<p>(b) Quantity of water required</p>	<p>QUANTITY OF WATER REQUIRED GALLONS PER DAY DURING</p>												
	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">January</td> <td style="width: 33%; padding: 2px;">May</td> <td style="width: 33%; padding: 2px;">September</td> </tr> <tr> <td style="padding: 2px;">February</td> <td style="padding: 2px;">June</td> <td style="padding: 2px;">October</td> </tr> <tr> <td style="padding: 2px;">March</td> <td style="padding: 2px;">July</td> <td style="padding: 2px;">November</td> </tr> <tr> <td style="padding: 2px;">April</td> <td style="padding: 2px;">August</td> <td style="padding: 2px;">December</td> </tr> </table>	January	May	September	February	June	October	March	July	November	April	August	December
January	May	September											
February	June	October											
March	July	November											
April	August	December											
<p>(c) Describe class of soil to be irrigated.</p> <p>(d) Describe nature of sub-soil with particular reference to its drainage possibilities.</p> <p>(e) Describe in detail any works to be constructed to drain the irrigated lands.</p> <p>(f) Where is the residue of the unused water to be disposed of? State name of body of water to which it is to be returned.</p>													

SCHEDULE E

USE OF WATER FOR POWER GENERATION

(Including use of water for driving rams)

<p>State the following-</p> <p>(a) Purpose for which power is required.</p> <p>(b) Brake horse power which is to be Developed</p> <p style="padding-left: 20px;">(i) Maximum</p> <p style="padding-left: 20px;">(ii) Minimum</p> <p>(c) The gross fall or head available for power production at the following river stages-</p> <p style="padding-left: 20px;">(i) At low stage</p> <p style="padding-left: 20px;">(ii) At normal stage</p> <p style="padding-left: 20px;">(iii) At high stage</p>	<p style="text-align: right;">..... B.H.P.</p> <p style="text-align: right;">..... B.H.P.</p> <p style="text-align: right;">..... feet</p> <p style="text-align: right;">..... feet</p> <p style="text-align: right;">..... feet</p>
---	--

Water Resources

[subsidiary]

<p>(h) Whether the submerged area at high flood level will be wholly within applicant's holding(s). If not, state names of owners of land etc. affected.</p> <p>(i) Whether one or both banks of the stream at the site of the dam are on the applicant's holding(s). If not, state names of owners of land, etc., affected.</p> <p>(j) Will any other works including weirs, already constructed or being constructed be affected by the head and/or tail water level of the proposed works? State "Yes" or "No". If "Yes" give full details of works affected.</p> <p>(2) The following information is required if the dam exceeds 50 acre feet in capacity (14 million gallons approx.) or 15 feet in height-</p> <p>Catchment area-</p> <p>(a) Area of surface catchment</p> <p>(b) Maximum length of catchment</p> <p>(c) Average breadth of catchment</p> <p>(d) Ruling slope of catchment</p> <p>(e) Nature of ground of catchment (e.g. "rocky", stony "soil", "clay soil", etc.)</p> <p>(f) Vegetation of catchment (e.g. "forest", "shrub", "pasture", "crops", etc.)</p> <p>(3) State if flood water is to be disposed by means of:-</p> <p>(a) The dam acting as a weir</p> <p>(b) By-pass(es) or waste weir(s) on one or both flanks</p>	<p>..... acres</p> <p>..... miles/yards/feet</p> <p>..... miles/yards/feet</p> <p>..... in degrees or expressed as 1ft. in feet</p>
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Water Regulations

[Subsidiary]

- Para. 11. If the canal or pipeline has any change of cross-section or gradient the details are to be given of each such change on a separate sheet of paper if not shown on the plan/s accompanying this application. If any structure is proposed under section (e) plan/s must be sent with the application.
- Para. 12. The type of pump should be stated as centrifugal, ram, etc. with the maker's name thus for example "Braemar 6 stage centrifugal".
- The type of driving machine should be similarly stated, for example "Lister Diesel Engine Type S.R.1". The connexion between pump and driving machine should be stated as "Vee belts" or "Direct coupled", etc., as the case may be.
- Para. 17. Grants of Water Rights are *not* normally issued for periods in excess of five years.
- Para. 18. The map referred to should be to a scale of 1:50,000 (obtainable from the Map Sales Office of the Survey Department, Blantyre) and *three* copies are to be attached to the application. The following details should be shown where applicable:
- (a) The boundaries of the estate, farm, etc. for which the application is made.
 - (b) The point of abstraction.
 - (c) The areas to be irrigated (if applicable).
 - (d) The site of the dam and area of the reservoir so formed.
 - (e) The names of other holdings which might be affected by abstraction.
 - (f) Any other detail which may be relevant to the application. Plans or drawings should be attached showing details required in paras. (II), (12) and wherever the answers to any of the questions can be better given in the form of a drawing.

SCHEDULE A

The normal quantities are as follows-

Low density houses	..	..	300 gals. per day per house
Medium density houses	..	..	50 gals. per day per occupant
High density houses	..	..	10 gals. per day per occupant
Large stock	..	..	10 gals. per head per day
Small stock	..	..	2 gals. per head per day

SCHEDULE B

The population estimates should apply only to those members of the population to whom it is considered that water will be supplied.

SCHEDULE D

The growing season of crops *is* intended for crops with specific growing seasons, e.g. maize, rice, etc. not for crops such as coffee, tea, etc.

[Subsidiary]

Water Regulations

G.N.
107/1977

SCHEDULE

FORM WRB. 1A

**NOTIFICATION PRIOR TO AN APPLICATION FOR A GRANT OF WATER RIGHT
(GROUND WATER)**

This form is to be submitted to the Chairman of the Water Resources Board, P.O. Box 30026, Capital City, Lilongwe 3.

(1) Full name of applicant

.....

Postal address

.....

Occupation

(2) Location of land on which borehole is to be sunk: 1:50,000 Sheet

No. N.G.R.

(3) Briefly describe purpose for which water will be used

.....

.....

.....

.....

Date

.....
Signature of Applicant or his duly

Authorized Agent

NOTE- This form is intended to notify the Board of the applicant's intention to drill or sink a borehole. Full details as to the purpose for which water is required will be shown in paragraph (7) of Form WRB. 2. Having known the yield of his well or borehole, the applicant will be in a position to decide whether water will be abstracted by hand or pump; and if by pump, the applicant may then fill paragraph (6) of the said Form WRB. 2 with the necessary details.

FORM WRB. 2

**APPLICATION FOR A GRANT OF WATER RIGHT/CERTIFICATE OF
EXISTING RIGHTS*
(GROUND WATER)**

This form to be submitted in triplicate.

To: The Chairman of the Water Resources Board,
P.O. Box 30026,
Lilongwe 3.

(1) Full name of applicant

- Postal address.....
Occupation
- (2) Details of land on which borehole
*will be/has been sunk
Give Registered No.
- (3) Give details of land where
water will be used if different
from (2) above
- (4) Acreage
- (5) Description of borehole/well
Diameter, Depth, etc.
- (6) Details of pump (where (a) Type of pump
hand-operated pump is (b) Type of driving
used) answer *only* (a) machine and
and (b) fuel used
- (c) Brake horsepower of (b)
B.H.P.
- (d) Approximate elevation of pump above sea-level feet
- (e) How pump is connected to driving machine
.....
- (f) Internal diameter of suction main inches
- (g) Height of suction..... feet
(maximum)
- (h) Height to which water is to be lifted above
pump..... feet
- (i) Internal diameter of delivery pipe inches
- (j) Length of delivery pipe feet
- (k) Pumping hours per day
..... hours
- (l) Quantity of water to be pumped when plant is working
.....
gals. per hour.

*Delete as appropriate

L.R.O.I/1978

(7) purposes for which water is required:

Domestic	..	..	..	Gallons per day
Public	..	..	..	.....
Industrial	..	..	..	.....
Irrigation	..	..	..	.....
Any other purpose (to be stated)	..	..	..	.....
Total quantity of water per day				..

(8) Alternative source of water available to the applicant (if any).

(9) The following are the existing boreholes within one half-mile of the site to which this application refers :

Borehole No. (if known)	Name of Farm (Reg. No.)	Distance from site
.....
.....
.....
.....

(10) *I enclose herewith crossed cheque/postal Order/Money Order No..... for K2 to cover the prescribed fee for this application and undertake to pay the Malawi Government on demand the cost of insertion in the Government Gazette and in at least one newspaper circulating in Malawi of a Notice requiring any person objecting to the issue of a Grant of Water Rights to lodge such a complaint with the Chairman of the Water Resources Board.

NOTE: This paragraph is not applicable to applications to record an existing right under the Act

.....
Signature of applicant or duly authorized agent

Date

NOTE: This form is to be accompanied by a sketch map, in duplicate on a scale of not less than one inch to one mile, on which must be shown the farm or holding boundaries, the approximate position of the proposed borehole and existing boreholes within one half-mile radius and the position of any body of surface water.

FORM WRB. 3

**WATER RESOURCES ACT
(CAP. 72:03)
GRANT/CERTIFICATE* OF WATER RIGHT**

No.of 19.....
THIS GRANT made/CERTIFICATE given* the..... day of19.....
BETWEEN THE MINISTER OF THE MALAWI GOVERNMENT RESPONSIBLE FOR WATER RESOURCES (hereinafter called "the Minister") of the one part and (hereinafter called "the Grantee") of the other part

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Water Resources

[Subsidiary]

Water Regulations

WITNESSETH as follows-

1. IN CONSIDERATION of the covenants and subject to the conditions hereinafter contained or implied the Minister hereby grants/confirms* unto the Grantee subject to the provisions of the Water Resources Act and of the Regulations there under now in force or which may come into force during the continuance of this Grant/Certificate* or any renewal thereof for the term of..... years from the right and liberty but not exclusively to take water from the river/stream (hereinafter called "the said river/stream") in accordance with the schedule hereto at an annual rent of K to be paid in advance on the first day of April in every year.
2. THE Grantee hereby covenants with the Minister as follows-
 - (i) to perform, observe and comply with the covenants and conditions implied by the Regulations made by the Minister under the Water Resources Act, and with any amendments or addition thereto which may from time to time be made by the Minister;
 - (ii) to abstract water from the point marked on Survey Department Sketch Plan No..... annexed hereto; and
 - (iii) to take water from the said river/stream only for the purposes and at the rates specified in the schedule hereto.

SCHEDULE

	MAXIMUM QUANTITY FOR ABSTRACTION	
	gals. per minute	gals. per day
(a) Domestic		
(b) Public		
(c) Irrigation		
(d) Industrial ,		
(e) Power		
(f) Other		
TOTAL		

Dated this..... day of19

In witness whereof the Minister/Chairman has signed in the presence of:

Name

Address

Occupation

.....
*Minister of Agriculture and Natural Resources/
Chairman, Water Resources Board*

Water Regulations

[Subsidiary]

Name

Address

Occupation

*Delete as appropriate _____

FORM WRB. 4

RESOURCES ACT

(CAP. 72:03)

GRANT OF WATER RIGHT/CERTIFICATE OF EXISTING RIGHTS* IN RESPECT OF GROUND WATER

BOREHOLE/WELL W.R.B. No. WATER RESOURCES BOARD,
REGISTERED No. OF LAND P.O. Box 30026,
LILONGWE 3.

Date

..... of.
is authorized* to construct the above borehole/well* and to abstract water from the above
borehole/well* for the term of..... years from the at a rate not
exceeding gallons per day for purpose/s, paying there for
the annual rent of K..... in advance on the first day of April in each year. This Grant/
Certificate* is issued subject to the provisions of the Water Resources Act and of the
Regulations there under now in force, or which may come into force during the continuance
of this Grant/Certificate* or any renewal thereof.

Dated this..... day of..... 19

.....
Minister of Agriculture and Natural
Resources/Chairman, Water
Resources Board

*Delete as appropriate _____

FORM WRB. 5

APPLICATION FOR AN EASEMENT

This form is to be submitted in triplicate.

NOTE: All applications must be accompanied by maps/plans to a scale of 1 :50,000

(See section 14)

L.R.O.1/1976

LAWS OF MALAWI

Cap.72:03

Water Resources

[Subsidiary]

Water Regulations

T O : The Chairman of the Water Resources Board,
P .O. Box 30026,
Lilongwe 3.

(1)	Full name of applicant/s	
(2)	Address (a) Residential (b) Postal	
(3)	State whether (a) Owner (b) Manager (c) Agent if (b) or (c), give name and address of owner.	
(4)	Name and location of land over which easement is required.	
(5) (a)	Names and addresses of all persons known to be interested in land over which easement is required.	
(b)	Registered numbers under which such persons hold title to the land.	
(6)	Particulars of land over which easement is required.	
(7)	Name or description and type of body of water from which the water required is to be diverted, stored or used.	
(8)	State reason why easement is required.	
(9)	Description of easement (e.g. , right of way, aqueduct, storage).	
(10)	Description of works, if any, to be constructed.	
(11)	Which of the persons detailed in 5 have refused to grant an easement? Copies of relevant correspondence to be enclosed.	

Water Regulations

[subsidiary]

(12)	Details of Grants of Water Rights held or applied for by the applicant relating to the land in favour of which easement is required.	
(13)	Period for which easement is required.	
(14)	The number of the maps and/ or plans accompanying this application.	
(15)	Description of reports and/or documents sent in support of this application.	
(16)	Further information relevant/to this application.	

(17) I enclose herewith crossed cheque/Postal Order/Money Order No..... for K3 to cover the prescribed fee for this application.

.....

Signature of applicant or duly authorized agent

Dated this day of 19

FORM WRB. 6

WATER RESOURCES ACT

(CAP. 72:03)

CERTIFICATE OF EASEMENT

No.

The easement described in the First Schedule hereto over or in respect of the land described in the Second Schedule hereto is hereby granted to of subject to the provisions of the Water Resources Act and of the Regulations there under now in force or which may come into force during the continuance of this easement.

L.R.O.1/1976

LAWS OF MALAWI

Water Resources

Cap.72:03

[subsidiary]

Water Regulations

FIRST SCHEDULE

SECOND SCHEDULE

Dated this..... day of..... 19

In witness whereof the Minister/Chairman has signed in the presence of:

Name

Address.....

Occupation.....

Name.....

Address.....

Occupation.....

*Minister of Agriculture and
Natural Resources/Chairman,
Water Resources Board*

G.N.

SECOND SCHEDULE

185/1975 FEES-

(1) Application for a Grant of Water Right

(a) Surface Water K2.00

(b) Ground Water K2.00

(2) Application for a Certificate of Easement K2.00

(3) Drawing Fee for a Certificate of Easement K6.00

RENTS-

The rent payable annually shall be calculated as the product of the total authorized annual abstractions, the appropriate factor A, B and C and the unit charge prescribed by the Minister, subject to a minimum charge of K10.00 per annum.

<i>Factor</i>	<i>Factor</i>
Source of Supply A	0.5
Shire River and Tributaries d/s of Matope	
Upper Shire River and Tributaries, Lake Malawi, Shire Highlands rivers ..	1.0
Lake Malawi Tributaries u/s of Liwonde ..	1.5
Groundwater	0.5
Reservoirs with not less than 3-month storage	one-half of the relevant source
Use B	20
Spray Irrigation	
Industrial Use and Public Supply ..	1.00
Power Generation	0.01
C	1.0
Season All Year Round	
C	2.0
Dominantly Dry Season	

*Water Resources (Water Pollution Control) Regulations***[Subsidiary]**

WATER RESOURCES (WATER POLLUTION CONTROL)

REGULATIONS

G.N. 31/1978

under s. 24

- | | |
|--|--|
| 1. These Regulations may be cited as the Water Resources (Water Pollution Control) Regulations. | Citation |
| 2. Except with the prior written approval of the Minister, no person shall- | Minister's approval to build septic tank or pit-latrine |
| (a) build a septic tank or pit-latrine within a distance of 220 yards from a borehole; or | |
| (b) build any septic tank with a capacity of 5,000 gallons or more. | |
| 3. Every borehole and every well, intended for use as a source of water supply to the public, shall be constructed in a manner which prevent any deleterious matter from entering the and wells aquifer. | Manner of constructing boreholes and wells |
| 4.-(1) Except with the prior written consent of the Minister Minister's granted in accordance with these Regulations, no person shall discharge or cause to be discharged into public water - | Minister's consent to discharge water or effluent required |
| (a) any water or effluent resulting from- | |
| (i) any sewage treatment works, | |
| (ii) any water-borne sanitation system, or | |
| (iii) the use of water for any manufacturing, mining or other industrial process; and | |
| (b) any storm-water sewer effluent. | |
| (2) The provisions of sub regulation (1)- | |
| (a) shall, in respect of the waste or effluent specified in paragraph (a) thereof, apply whether the discharge of such waste or effluent is by seepage or drainage; and | |
| (b) shall not apply where any waste or effluent specified therein has been accepted into a local authority sewer. | |
| 5. Regulations 2, 3 and 4 shall, as the case may be, apply also to- | Application of regulations |
| (a) all septic tanks and pit-latrines, | 2, 3 and 4 |
| (b) all boreholes, wells or other sources of water supply to the public, and | |
| (c) all waste or effluent discharges, existing at the time of the coming into operation of these regulations. | |
| 6.-(1) Any person may apply for the Minister's consent to discharge any waste or effluent specified in regulation 4. | Application for the Minister's consent |

[Subsidiary]

Water Resources (Water Pollution Control) Regulations

Schedule
(*Form*
WRB 7)

(2) An application for the Minister's consent shall be made in Form WRB 7 set out in the Schedule hereto and shall be submitted through the Board which shall, within fourteen days after receiving the application, give notice thereof in the *Gazette* and in at least two consecutive issues of the most frequently circulated paper in Malawi, the date of such *Gazette* and the date of either of such issues being not more than five days apart.

(3) The Board shall, by notice in the *Gazette*, specify the places where *Form* WRB 7 may be obtained.

Interested
persons
may object
to an application

7. Where notice of an application has been published under regulation 6, any person having an interest in the matter may, within thirty days after the date of such publication in the *Gazette*, object to the application in writing addressed to the Board, stating-

- (a) his name and address ;
- (b) his interest in the matter;
- (c) the matter in respect of which he is objecting to the application ;
- (d) the grounds of his objection; and
- (e) whether or not he wishes to be heard on his objection.

The Board
to consider
applications
and objections

8. The Board shall consider every application for the Minister's consent and any objection thereto and may consult such persons and authorities as it deems necessary for the purpose of considering such application or objection.

Objector's right
to be heard

9. (1) Every person who, pursuant to regulation 7, objects to an application for the Minister's consent shall, during the consideration of his objection, be entitled to attend before the Board in person or, if such person is a body corporate, by a senior director or executive of such body corporate or to be represented thereat by a legal practitioner and shall be entitled to be heard and to adduce evidence in respect of any matter relevant to his objection.

(2) The Board shall, by letter sent by ordinary post to the address stated in the objection, notify the person objecting to an application for the Minister's consent of the date, time and place of consideration of his objection.

The Board
to forward
application,
etc., to
Minister

10. (1) Having considered an application for the Minister's consent and any objection thereto, the Board shall, without undue delay, forward the application to the Minister together with its report and recommendations thereon and such other documents in its possession as it deems relevant to the application.

(2) An applicant or any person objecting to an application for the Minister's consent shall not be entitled to a copy, or to be informed of the contents, of any report made to the Minister by the Board pursuant to sub regulation (1).

11.-(1) The Minister, having considered an application and the report of the Board thereon and such other documents as were submitted to him under regulation 10, shall decide whether or not he should grant his consent and where he has decided so to do he shall grant his consent in Form WRB 8 set out in the Schedule hereto.

Minister's
consent
Schedule
(Form
WRB 8)

(2) The Board shall notify the applicant and any person objecting to an application for the Minister's consent of the Minister's decision made pursuant to sub regulation (1) and where the Minister's consent has been granted the Board shall forward to the applicant a signed copy of the consent.

(3) In every consent granted under sub regulation (1), the Minister-
(a) shall specify the period for which such consent shall remain valid, but such consent may be renewed thereafter, at the discretion of the Minister, for any further period;

(b) may specify any conditions upon which such consent has been granted.

(4) The determination of the period specified under subparagraph (a) and the conditions specified under subparagraph (b) of sub regulation (3) shall lie solely in the discretion of the Minister.

12.-(1) A person to whom the Minister's consent has been granted shall-

Person granted
consent to do
certain things

(a) pay such fees and rents, and in such manner, as the Minister may specify in the consent;

(b) erect, in such workmanlike manner as shall satisfy the Minister, works which are required for the discharge of waste or effluent into any public water, and in this case the works shall be erected in a manner which shall ensure that the effluent does not cause any unnecessary damage or disturbance to the bed, banks or surroundings of such public water nor collect into pools within the vicinity of the works;

(c) if so required by the Minister, erect, in such workmanlike manner as shall satisfy the Minister, works which are required for the sampling and testing of any waste or effluent capable of being discharged by such person;

(d) not assign the consent to any other person, unless the Minister has first agreed in writing to such assignment; and

(e) comply with every condition specified in the consent.

L.R.O.1/1985

LAWS OF MALAWI

Water Resources

Cap. 72:03

[Subsidiary]

Water Resources (Water Pollution Control) Regulations

(2) Any person authorized by the Board may, at any time and without prior notice to any person, enter upon any land for the purpose of testing, or taking samples of, the waste or effluent capable of being discharged by means of the works erected pursuant to paragraph (b) of sub-regulation (1), but no compensation shall be payable by such authorized person or the Board to any person in respect of any damage done to such land by reason of such entry .

Government
To be
indemnified

13. A person to whom the Minister's consent has been granted shall indemnify the Government against any loss which it has suffered arising out of any action, claim or demand brought or made against it in respect of anything done by such person under the authority of the consent.

Government
To be
compensated

14. A person who, by an act or omission committed by him, his agent or his employee in contravention of any of these Regulations, causes any loss to the Government or puts the Government to any expense shall, if so required by the Minister, pay to the Government such sums as shall adequately compensate the Government for such loss or expense.

Analysis of
waste or
effluent

15. Where the Minister requires him so to do, an applicant for the Minister's consent or a person to whom the Minister's consent has been granted shall, at no expense to the Minister or the Board take samples of waste or effluent in the manner which the Minister may prescribe and have such samples analysed by an analyst recognized by the Minister and furnish the results of such analysis to the Minister.

Minister's
Consent may
Withdrawn

16. The Minister's consent granted under these Regulations may be withdrawn at any time and without prior notice-

- (a) if the quantity or quality of the waste or effluent has, in the opinion of the Minister, varied significantly from that allowed in the consent;
- (b) if there has been a breach of any of these Regulations; or
- (c) if any requirement of the Minister or the Board made under these Regulations has not been complied with.

SCHEDULE

FORM WRB 7

WATER RESOURCES ACT

(CAp.72:03)

WATER RESOURCES (WATER POLLUTION CONTROL)

REGULATIONS

(REGULATION 6)

APPLICATION FOR MINISTER'S CONSENT TO DISCHARGE WASTE OR EFFLUENT INTO PUBLIC WATER

This form is to be submitted in duplicate to the Chairman of the
Water Resources Board, P.O. Box 30026, Lilongwe 3.

LAWS OF MALAWI

Water Resources

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Water Resources (Water Pollution Control) Regulations

[Subsidiary]

NOTES:

- I. This form is not to be used for applications involving discharge of waste and effluent water to a public sewer.
- 2. All applications must be accompanied by maps or, failing maps, plans to a scale of at least 1 :50,000, drawn or copied on good quality drawing or copying paper.
- 3. A copy of any technical or engineering report relating to and explaining the proposals should be submitted as an addendum to the application for the information of the Water Resources Board.

PART A

I/We hereby apply for consent to discharge waste or effluent as described in this application and shown on the attached drawings.

I/We hereby agree to supply further information which may be required by the Water Resources Board.

I/We enclose herewith crossed Cheque/postal Order/Money Order No(s) of K to cover the prescribed fee for this application and undertake to pay the Board on demand the cost of publication in the *Government Gazette* and in at least two issues of a newspaper circulating in Malawi of a notice pursuant to Regulation 6.

Date

.....

Signature of applicant or his duly authorized agent

FOR OFFICE USE

Applicant's File No.	
N.G.R.	
Nature	
Max. Discharge	
Board No.	
Consent No.	

L.R.O. 1/1979

LAWS OF MALAWI

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Water Resources

[Subsidiary]

Water Resources (Water Pollution Control) Regulation

PART B

(To be completed in all cases)

1. Applicant's full name and address		Tel. No.	
2. Agent, if any: Name and profession and address			
3. Details of existing and/or proposed works (Give location, address and/or map number and six figure Grid reference on 1 :50,000 Malawi series.) Attach drawings as necessary.			
4. Period for which works will be required (if temporary, state period).		Permanent/ Temporary	
5. Nature of the discharge	(a) Sewage effluent	Yes/No	
	(b) Storm tank effluent or overflow from a foul sewer/	Yes/No	
	(c) Surface water sewer/ drain effluent	Yes/No	
	(d) Trade effluent	Yes/No	
	(e) Other discharge (give details)		
6. Treatment prior to discharge, if any (give details).			
PART C			
(To be completed for discharge of biologically treated sewage effluent)			
1. Volume of discharge in dry weather	m^3/d	gal./day	
2. Maximum rate of discharge	l/s	gal./hr.	
3. Average daily volume of trade effluent, if .. any, received at the works	m^3	gal.	
4. Population. to be served by the works and date this will be reached			
5. Method of measurement of flows from the works			

PART D

(To be completed for discharge of storm tank effluents and foul sewer overflows)

1. Dry weather flow in associated sewer(s)	m ³ /d	gal./day
2. Rate of flow in associated sewers at which overflow will commence	l/s	gal./hr.
3. Rate of rainfall if known at which over-flow will commence ...	mm/h	in./hr. .
4. If the overflow is situated at a pumping station state what standby equipment is to be provided		

PART E

(To be completed for discharge from surface water sewer/drains)

1. Is any oil to be stored or used in the area served by the sewer/drain ? If so what precautions are to be taken to prevent discharge of oil (e.g. by bunding of tanks, provision of interceptors, etc.)?	
2. Are any poisonous, noxious or polluting substances to be stored or used on the premises served in such a manner that they could contaminate surface water (give brief details) ?	

PART F

(To be completed for discharge of trade effluent or for any other effluent)

1. Trade or process from which discharges will arise	
2. Daily volume of discharge-(a) average (b) maximum	m ³ /d m ³ /d gal. /day gal. /day
3. Maximum rate of discharge	
4. Method of measurement of discharge	
5. Maximum temperature of the discharge	°C
6. Maximum concentration of any contaminants known to be present in the discharge	

L.R.O. 1/1979

LAWS OF MALAWI

Cap. 72.03

WATER RESOURCES

[Subsidiary]

Water Resources (Water Pollution Control) Regulations

COMMENTS (IF ANY BY THE WATER RESOURCES BOARD):

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

FORM WRB 8

WATER RESOURCES ACT

(CAP. 72:03)

WATER RESOURCES (WATER POLLUTION CONTROL)

REGULATIONS

(REGULATION II)

MINISTER 'S CONSENT TO DISCHARGE WASTE OR EFFLUENT INTO PUBLIC WATER

Applicant's File No.

Consent No.

Plot No.

N.G.R.

..... of

..... is hereby

authorized to discharge waste or effluent into

for a period of with effect

from the day of

19..... at a rate not exceeding gallons

per day nor gallons per hour and at the

rent of K per, paid in

advance by the day of

19

This consent is granted subject to the conditions stated hereunder.

Dated this day of, 19.....

.....
Minister of Agriculture and Natural Resources

CONDITIONS

.....
.....

RENEWALS