GOVERNMENT NOTICE NO. 43

PUBLIC ACCOUNTANTS AND AUDITORS ACT

(CAP. 53:06)

ACCOUNTANCY SERVICES REGULATIONS, 2021

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IN EXERCISE of the powers conferred by section 57 of the Public Accountants and Auditors Act, I FELIX LAFIEL MLUSU, Minister of Finance, in consultation with the Malawi Accountants Board, make the following Regulations—

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Accountancy Services Regulations, 2021.

Interpretation

2. In these Regulations unless the context otherwise requires—

"accountancy services" means the recording, review, analysis, calculation or reporting of financial information and includes professional bookkeeping services, preparation of financial statements, tax advisory services, liquidation and management services, financial assurance services, preparing or signing accounts or certificates of financial information concerning a person's or organisation's financial affairs;

for avoidance of doubt, accountancy services shall exclude services such as auditing services and attestation of audit opinion;

"accountancy service provider" means a registered chartered accountant or registered diplomate accountant offering accountancy services;

"practicing accountant" has the same meaning as defined under the Accountancy service providers and Audit Firms Regulations, 2017;

"tax advisory services" means assistance rendered to an individual or an entity in the completion and submission of tax returns in relation to any tax or duty or providing advice relating to tax or duty liability or the amount of tax or duty payable on a particular commodity or service and includes tax computation, tax advisory, tax claim and any other services relating to tax; and

"users" means any person who has been recognized as the user of services, products and reports rendered by an accountancy or advisory service provider.

Application

3. These Regulations apply to the provision of—

(*a*) accountancy services;

(*b*) assurance services on any financial issue; and

(*c*) any other financial services.

PART II—REGISTRATION OF ACCOUNTANCY SERVICES PROVIDERS

Application for registration as an accountancy service provider

4.—(1) A person who intends to provide accountancy services, shall apply to the Board, for registration.

(2) An application for registration shall be—

(*a*) made by completing an application Form 1 prescribed in the Schedule hereto; and

(*b*) accompanied by an application fee prescribed in Form 2 in the Schedule hereto.

Criteria for registration of an accountancy service provider

5.—(1) The Board shall not register an applicant unless the Board is satisfied that—

(*a*) the applicant is registered as a Chartered accountant or a Diplomate accountant by the Board;

(*b*) in the case of a Chartered accountant, the person has acquired two years post-qualification experience as a Chartered accountant and in the case of a Diplomate accountant, the person has acquired four years post-qualification experience as a Diplomate accountant;

(*c*) the applicant has registered a business, partnership or firm, under the Companies Act or the Business Registration Act, to provide accountancy services and where such registration is of a partnership, the person has submitted a duly executed partnership agreement;

(*d*) in the case of a partnership, all partners are registered with the Board and that at least one partner is resident in Malawi; and

(*e*) the applicant or, where the application is being made on behalf of a firm or partnership, any director of the company or any one of the partners has not, within the past seven years, been convicted of an offence under any written law punishable by a term of imprisonment of at least six months without an option of a fine.

Registration of an accountancy service provider

6.—(1) The Board shall process an application received under regulation 4 and communicate results to the applicant within sixty days from the date the application is received.

(2) Where the Board is satisfied that the applicant has met the registration criteria set out in regulation 5, the Board may, subject to such terms or conditions as the Board may determine, register the applicant as an accountancy service provider and issue a registration certificate to the applicant.

(3) Where an application has been rejected, the Board shall inform the applicant, in writing, of the decision and give reasons for the rejection.

(4) An accountancy service provider who does not comply with any term or condition prescribed by the Board under subregulation (2) shall be liable to an administrative penalty.

Annual subscription fee

7.—(1) An accountancy service provider shall pay to the Board an annual subscription fee prescribed in Form 2 in the Schedule hereto by the 31st day of January of each year.

(2) An accountancy service provider that has not paid an annual subscription fee in accordance with subregulation (1) shall not offer accountancy services until the fees are paid.

(3) The Board may impose an additional monetary penalty for the delay in paying the annual subscription fee.

(4) An accountancy service provider that contravenes the provisions of subregulation (2) shall be liable to an administrative penalty.

Register of accountancy service providers

8.—(1) The Board shall maintain a register of registered accountancy service providers which shall be open for inspection to the public in a manner as the Board may prescribe.

(2) The register shall be used as a point of reference for any individual or entity seeking to obtain accountancy services.

(3) The Board shall publish on its website a list of registered accountancy service providers which shall be updated from time to time.

(4) The Board shall publish, once a year, in a newspaper of wide circulation a list of registered accountancy service providers.

Submission of annual returns

9.—(1) An accountancy service provider shall submit to the Board an annual return report which shall contain the following information—

(*a*) categories of accountancy services offered;

(*b*) clientele base, categorized in accordance with categories of services provided;

(*c*) changes in key personnel during the year; and

(*d*) any other information which the Board may request.

(2) The Board shall not require submission of financial statements by the accountancy service provider.

(3) Notwithstanding subregulation (2), the Board may require the accountancy service provider to submit, within seven days from the date of the request, other accounting information which the Board may consider appropriate in the supervision of the accountancy service provider where—

(*a*) the Board is in receipt of a complaint from a client against the professional and ethical conduct of the accountancy service provider;

(*b*) the accountancy service provider is under investigation for financial crimes or malpractice; and

(*c*) the accountancy service provider is undergoing liquidation or is in receivership.

(4) The Board may request an accountancy service provider to submit periodic reports, statistics, data or additional information, subsequent to an earlier submission, in order to effectively perform its supervisory functions.

(5) An accountancy service provider that contravenes the provisions of this regulation shall be liable to an administrative penalty.

PART III—QUALITY ASSURANCE REVIEWS

Quality assurance review

10.—(1) The Board may, at any time, conduct a quality assurance review of the practice of an accountancy service provider and may for these purposes inspect and make copies of any information, including but not limited to any working papers, correspondence, books or documentation in the possession or under the control of the accountancy service provider.

(2) The quality assurance reviews assessment shall be divided into two parts as follows—

(*a*) engagement reviews; and

(*b*) accountancy service provider reviews.

Objective of the reviews

11. The objectives of the reviews shall be to—

(*a*) monitor compliance with relevant professional standards in the provision of services by registered accountancy service providers;

(*b*) assess the design and implementation of the systems of quality control employed by the accountancy service provider including leadership responsibilities, ethical requirements, human resources and client engagement; and

(*c*) ensure that there is improved standards and the quality of work provided by the accountancy service provider.

Quality assurance review cycle

12.—(1) An accountancy service provider shall be subjected to a quality assurance review at least once every three years, which shall be referred to as a review cycle.

(2) The Board shall not proceed to the next review cycle of the accountancy service provider unless the results for the review cycle are satisfactory.

(3) A quality assurance review shall be carried out by qualified professionals employed on full time or part time basis by the Board.

Compliance with professional standards

13. An accountancy service provider shall comply with relevant professional standards in a manner that is most cost effective.

Outcome of the quality assurance review

14. The outcome of a quality assurance review shall be an ongoing pursuit of quality improvement by accountancy service providers.

Appointment of an independent reviewer

15.—(1) The Board may appoint an independent individual or institution to carry out a quality assurance review of an accountancy service provider.

(2) Where the Board decides to appoint an independent individual or institution to carry out a quality assurance review, the Board shall have regard to—

(*a*) expertise, qualifications and independence of the individual or individuals assigned by the institution to conduct the quality assurance review;

(*b*) potential for conflict of interest in the person or institution to be appointed;

(*c*) capacity deficiencies within the Board; and

(*d*) the number of quality assurance reviews to be conducted.

(3) Where the Board decides to appoint an independent individual or institution to carry out a quality assurance review, the Board shall appoint a person or institution that meet the qualification guidelines from IFAC Statement of Membership Obligation 1 (SMO1).

Confidentiality

16.—(1) An employee of the Board, an independent individual or institution appointed by the Board to conduct quality assurance review shall not disclose to a third party any information obtained in the course of the review except—

(*a*) for purposes of an investigation or a hearing resulting from the review;

(*b*) where the person is required to do so by order of a Court of law;

(*c*) where the Institute requires such information for purposes of conducting an investigation which may lead to disciplinary action or criminal prosecution;

(*d*) where the Institute requires such information for purposes of IFAC's Statement of Members' Obligations; or

(*e*) with the written consent of the accountancy service provider, and at the written request of an appropriate international regulator.

(2) The Board shall keep all records and information of completed review cycle in strict confidence.

(3) An employee of the Board, an independent individual or institution who contravenes the provisions of subregulation (1) commits and offence and shall upon conviction be liable to a fine of K200,000 and imprisonment for two years

Cost of quality assurance review

17. An accountancy service provider shall, before commencement of any quality assurance review, pay to the Board quality assurance review fees as may be determined by the Board from time to time.

Steps to be followed in quality assurance review

18.—(1) An independent individual or institution authorized by the Board to carry out assurance review shall—

(*a*) give 60 days' notice to the accountancy service provider to be reviewed;

(*b*) request pre-review information from the accountancy service provider and the information to be submitted shall include particulars of clients, year-end turnover, and nature of business;

(*c*) carry out the quality assurance review;

(*d*) discuss results of the review with the accountancy service provider;

(*e*) draft and submit a report to the accountancy service provider within 21 days from the date the review is completed;

(*f*) obtain comments, in writing, from the accountancy service provider within 14 days from the date the report is submitted; and

(*g*) draft and submit to the Board the final report containing results of the quality assurance review.

(2) The independent individual or institution authorized by the Board to carry out the review shall summarize the report in a format prescribed by the Board and shall submit the summary to the Board.

(3) The Practice Review Committee of the Board shall evaluate the summary report and, where necessary, shall consult with the independent individual or institution that carried out the review in order to make appropriate recommendations to the Board.

(4) The Practice Review Committee shall submit its recommendations to the Board for the Board to make a decision on the results of the review.

(5) The Board shall, within 90 days of making its decision, notify the accountancy service provider of its decision.

Recommendations of the Practice Review Committee

19.—(1) The Practice Review Committee shall make the following recommendations to the Board—

(*a*) the results of the quality assurance review are satisfactory and the accountancy service provider shall be subject to review in the next cycle;

(*b*) the results of the quality assurance review are not satisfactory and the Board should conduct follow up reviews until the performance is satisfactory; or

(*c*) the results of the quality assurance review are not satisfactory and the accountancy service provider should be subjected to disciplinary action by the Board.

(2) An accountancy services provider shall be subjected to disciplinary action by the Board where the results of the quality assurance review indicate that the accountancy service provider—

(*a*) did not meet the required professional standards and the users are at risk;

(*b*) failed to implement the recommendations of the Board emanating from the previous review cycle;

(*c*) flagrantly disregarded professional standards and ethics;

(*d*) refused to cooperate with the reviewer in the review process; or

(*e*) refused to be reviewed.

Procedure in carrying out re-reviews

20.—(1) The Board, an independent individual or institution authorized by the Board shall, in carrying out re-reviews—

(*a*) focus on assessing how deficiencies identified by the the initial quality assurance review are being progressively addressed by the accountancy service provider;

(*b*) select new files for review as may be determined by the Board; and

(*c*) follow the procedure prescribed under regulation 18.

(2) A re-review shall only focus on the addressing deficiencies identified by the initial quality assurance review.

(3) The Practice Review Committee shall make new recommendations to the Board based on results of each re-review.

(4) Each review cycle shall have a maximum of two re-reviews and if after the maximum re-reviews, the accountancy service provider has not yet addressed all the identified deficiencies, the Board shall take disciplinary action against the accountancy service provider in accordance with regulation 19 (2).

Disciplinary inquiry

21.—(1) The Board shall commence a disciplinary inquiry against an accountancy service provider under regulation 19 (2) by establishing a disciplinary committee.

(2) The disciplinary committee shall, observe rules of natural justice and accord the accountancy service provider under a disciplinary inquiry, a right to be heard.

Outcome of the disciplinary inquiry

22.—(1) The disciplinary committee shall, inquire into the matter and shall within fourteen days of the closure of the disciplinary proceedings, produce a report which shall contain the findings and recommendations of the committee.

(2) Where the committee finds that the accountancy service provider has—

(*a*) not met the required professional standards and the users are at risk;

(*b*) failed to implement the recommendations of the Board emanating from the previous review cycle;

(*c*) flagrantly disregarded professional standards and ethics;

(*d*) refused to cooperate with a reviewer in the review process; or

(*e*) refused to be reviewed,

the committee shall recommend to the Board that administrative penalties be imposed on the accountancy service provider.

(3) Where the results of the quality assurance review indicate that there was professional negligence or flagrant disregard of professional standards and ethics on the part of the Chartered accountant or Diplomate accountant the Board shall refer the matter to the Institute to commence disciplinary proceedings under section 36 of the Act.

(4) The disciplinary committee may recommend to the Board the imposition of the following administrative penalties—

(*a*) a written warning;

(*b*) a fine as may be determined by the Board;

(*c*) suspension of the registration certificate for a period as may be determined by the Board; or

(*d*) revocation of a registration certificate.

(5) Where the Board suspends the registration of the accountancy services provider, the Board shall allocate a registered Practising accountant of not less than 10 years' experience, to mentor the Chartered accountant or Diplomate accountant for a period prescribed by the Board in order to improve the skills, competencies and professional standards of the Chartered accountant or Diplomate accountant.

(6) The Board shall have regard to the report and recommendations of the allocated mentor on the skills, competencies and professional standards and ethics of the suspended Chartered accountant or Diplomate accountant before uplifting the suspension.

(7) A Chartered accountant or Diplomate accountant may, upon expiry of the period of suspension, apply for re-registration with the Board and shall pay a re-registration fee to the Board prescribed in Form 2 to the Schedule hereto.

Record keeping

23.—(1) An accountacy service provider shall maintain proper records and returns relating to his clients and accountancy services offered to the clients.

(2) The nature and extent of records and returns maintained shall depend on the nature of the accountancy services offered.

(3) The accountacy service provider shall maintain a permanent file, providing details of clients such as share holding, capital issues and other relevant information which the Board may prescribe.

(4) An accountacy service provider who contravenes this regulation shall be liable to a monetary penalty of K200,000.

General administrative penalties

24.—(1) The Board may impose administrative penalties listed under regulation 21 (3) to an accountancy service provider who contravenes a provision of these Regulations for which no penalty is provided.

(2) the Board shall observe the rules of natural justice before the imposition of any the administrative penalty.

Revocation of certificate of registration

25.—(1) The Board may revoke the registration certificate of an accountancy service provider, where the accountancy service provider—

(*a*) has been declared bankrupt by a court of law;

(*b*) has been de-registered under the Companies Act or the Business Registration Act; and

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(*c*) upon request from the accountancy service provider.

PART IV—GENERAL PROVISIONS

Extension of time

26. Notwithstanding anything contained in these Regulations, where a time period is specified under any regulations for an act to be done or a condition to be fulfilled, the person affected may request, in writing, to the Board for an extension of such time and the Board may grant such extension of time as it considers appropriate.

Invalidity affecting enforceability

27. Where any provision of these Regulation is not enforceable due to a change in professional standards or any pronouncement from the International Federation of Accountants, the provision shall be suspended and the new standard or pronouncement shall prevail.

SCHEDULE

PUBLIC ACCOUNTANTS AND AUDITORS ACT r. 4 (2) (a)

(CAP. 53.06)

FORM 1

APPLICATION TO PROVIDE ACCOUNTANCY SERVICES

A. Details of Applicant

Full Name of Entity: .....

.....

Physical Address: .....

.....

Postal Address: .....

.....

Email Address: .....

Contact Phone Numbers: .....

B. Operating Revenue per annum: .....

C.	Name of partner	MAB Membership Number	Signature
	1.	.....	.....
	2.	.....	.....
	3.	.....	.....
	4.	.....	.....
	5.	.....	.....

D	Other Accountants in the firm	MAB Membership Number	Signature
	1.	.....	.....
	2.	.....	.....
	3.	.....	.....
	4.	.....	.....
	5.	.....	.....

Details of the accounting services that the entity provides or intends to provide:.....

.....

.....

DECLARATIONS AND SIGNATURE

1. I confirm that the information in this form is complete and true.
2. I acknowledge the role, duties and powers of the Malawi Accountants Board and agree to co-operate fully during its reviews.
3. I understand that an annual registration fee will be due upon lodging an application and thereafter at the commencement of MAB's financial year end.

Name: ..... Designation: .....

Signature: ..... Date: .....

Please send your duly completed form to:

The Chief Executive Officer
Malawi Accountants Board
Bible House
Victoria Avenue
P O Box 2271
BLANTYRE

E-mail: info@mab.mw

FORM 2 r. 4 (2) (b), 7 (1), 22 (6)

FEES

	Matter	K t
1.	Accountancy service provider firm registration	1,000,000.00
2.	Accountancy service provider annual subscription fee	300,000.00
3.	Accountancy service provider firm re-registration	2,000,000.00

Made this 16th day of June, 2021.

F. L. MLUSU
Minister of Finance

(FILE NO. SUB. D53:06)