NON-GOVERNMENTAL ORGANIZATIONS (OPERATIONS OF INTERNATIONAL NGOS) REGULATIONS, 2022

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# PART I

# PRELIMINARY

1. These Regulations may be cited as the Non-Governmental Organizations (Operations of International NGOs) Regulations, 2022.

Citation

1. In these regulations, unless the context otherwise requires, **―**

Interpretation

“Partnership” means a collaborative agreement between local and international NGOs in project implementation;

“International NGO” means as defined in the NGO Act;

“Service agreement” means a legal contract between Government of Malaŵi Ministries and an NGO for the delivery of a particular service.

1. Any NGO established or operating in Malaŵi, as defined under section 2 of the Act, shall comply with these Regulations.

Compliance with Regulations

1. For the purposes of this regulation, the Authority shall:

Role of the Authority

1. ensure compliance of parties to the partnership agreement;
2. conciliate or mediate in partnership disputes through the Complaints Handling Mechanism Regulation;
3. where necessary, investigate partnership disputes;
4. keep a record of partnership agreements;
5. do all such things as are necessary or incidental or conducive, in an independent and impartial manner, to support the effective implementation of the partnership agreement.

PART II

PARTNERSHIP

Principles of partnership

1. (1) This Regulation shall be guided by the principles of equality; complementarity;aid effectiveness;transparency and accountability; results oriented approach; localization; anddiversity.

(2)The partnership agreement shall be guided by the principles of objectivity, fairness and natural justice, and shall give consideration to, among other things:

1. the rights and obligations of the parties; and

1. the circumstances surrounding the partnership, including any previous operational practices between the parties.

Implementation by international NGOs

1. An international NGO operating in Malaŵi shall implement its projects in partnership with a local NGO except:

(a) where it is working in specialized areas that require specialized skill that is not available in the Local NGOs; and

(b) has a service agreement with Government of Malaŵi.

(c) where a partnership agreement relates to partnership with Community Based Organization or the private sector;

Partnership agreement

1. (1) An international NGO shall only enter into a partnership agreement with local NGO(s) compliant with the NGO Act.

(2) A partnership made under these Regulations shall be governed by the partnership agreement. The partnership agreement shall include the following:

* 1. the name of the parties in the agreement;
  2. the duration of the partnership agreement;
  3. the name of the partnership project;
  4. the key deliverables of the partnership agreement;
  5. the project resources.

(3) The partnership agreement shall be filed with the Authority within 30 days of being signed.

(4) Reporting shall be in accordance with the reporting regulation.

(5) The partnership agreement shall be project based or at organizational level.

Registration of partnerships

1. (1) The partnership agreement shall include:

Scope of partnership

(a) details of how the project will deliver public benefit;

(b) details of how either party will deliver capacity strengthening including:

* + 1. human resource;
    2. assets;
    3. systems and structures;

(c) a commitment to make available a minimum of thirty per cent of project resources towards project implementation in achieving 8(a, b) above.

Confidentiality

1. (1) All documents, records, reports, agreements and any other documents required or used in the course of implementing an operation under a partnership shall be confidential.

(2) The partners shall not disclose information given in the course of implementing a partnership to a person who is not a party to the partnership agreement without the consent of all parties.

(3) Not withstanding (2) the partners shall disclose information within and regarding the partnership to the Authority when necessary.

Powers under other written laws

1. Nothing in this Part shall preclude any person or authority from exercising the rights, powers, functions or duties conferred on such person or authority by or under any written law in respect of any matter otherwise provided under these Regulations.

**PART III**

**CLOSING INGO OPERATIONS**

1. In closing a partnership agreement, the parties shall:

Closure of Partnership Agreement

1. produce and submit a detailed project report;
2. inform the Authority within 30 days;
3. ensure all liabilities have been settled, in the course of which partners shall follow the partnership agreement in the disposal of assets; and
4. where, in the case of an international NGO in a service agreement, handover assets to government.

Closure of an INGO

1. An international NGO shall:
2. inform the Authority 3 months before closing the NGO;
3. submit in writing to the Authority a letter explaining their intention to close operations
4. shall file a resolution of the board to cease operations;
5. shall file a report with the Authority under the reporting regulations including details of assets and distribution;
6. shall ensure all liabilities have been settled.

**13.**―(1) Any person who contravenes or fails to comply with―

Offences and penalties

*(a)*these regulations;

*(b)* an order of the Authority;

*(c)* a stipulation of time,

shall be liable to any of the following penalties:

1. warning;
2. admonition;
3. restitution;
4. suspension;
5. cost of the proceedings or inquiry;
6. fine of amount not exceeding K1,000,000.

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