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GOVERNMENT NOTICE NO. 5

CONSTITUTION OF MALAWI
CONSTITUTION (REFERENDUM ON MALAWI'S POLITICAL SYSTEM)
REGULATIONS, 1993

ARRANGEMENT OF REGULATIONS

REGULATION

PART I—PRELIMINARY

1. Citation and application
2. Interpretation

PART II—THE REFERENDUM COMMISSION

3. Establishment of the Commission
4. Functions of the Commission
5. Referendum officers
6. Term of office of members of the Commission
7. Independence of the Commission
8. Allowances
9. Legal representation
10. Principal office of the Commission
11. Publicity
12. Funds
13. Duty to co-operate

PART III—REGISTRATION OF VOTERS

14. Eligibility
15. Right and duty to register
16. Duty to promote registration
17. Single registration
18. Places of registration
19. Temporary registration officers
20. Registration centres
21. Voters registers
22. Evidence of a person's eligibility to vote
23. Automatic eligibility of registered voters in elections
24. Registration of voters and issue of voters registration certificates
25. Updating of voters registers
26. Initialling of pages in voters registers
27. Monitoring of registration by special interest groups
28. Rights and duties of representatives of special interest groups
29. Period of registration
30. Closing of registration
31. Voters registers open to inspection

PART IV—CAMPAIGNING

32. Campaigning by special interest groups
33. Period of campaigning
34. Equal treatment of special interest groups

35. Freedom of expression and information
36. Freedom of assembly
37. Ethical norms during campaigning
38. Prohibition against disclosure of results of opinion polls
39. Prohibited places for campaigning
40. News broadcasts and reports
41. Publication of books, pamphlets, etc.
42. Campaign posters
43. Campaign financing

PART V—POLLING STATIONS

44. Polling stations
45. Polling station officers
46. Working hours for polling station officers
47. Work items for polling station officers
48. Security of work items at polling stations
49. Monitoring of voting by special interest groups
50. Rights and duties of representatives of special interest groups

PART VI—THE VOTE AND THE VOTING PROCESS

51. Characteristic of the vote
52. Place where to cast the vote
53. The ballot paper
54. Voting booths
55. Ballot boxes
56. Right of employees to be released for voting
57. Hours of voting
58. Order of voting
59. The President may not vote
60. Continuity of the voting process
61. Adjournment in certain cases
62. Prohibited presence, etc., at polling stations
63. Requirements for exercising the right to vote
64. Manner of casting the vote
65. Voting by blind and disabled persons
66. Null and void votes
67. Doubts and complaints
68. Procedure at close of the poll

PART VII—DETERMINATION OF RESULTS

69. Opening of ballot boxes and counting of votes
70. Classification of votes counted
71. Record of the counting of the votes
72. Announcement of the district result of the referendum
73. Delivery of records, etc., from districts
74. Determination of the national result of the referendum
75. Analysis of complaints prior to determination of the national result
76. Records of the national result of the referendum
77. Publication of the national result of the referendum

PART VIII—INTERNATIONAL OBSERVATION

78. Meaning of international observation
79. Scope of international observation
80. Beginning and end of international observation
81. Citizens not to be international observers

82. Co-operation by competent authorities
83. Invitation to international observers
84. Categories of international observers
85. Recognition and identification of international observers
86. Compulsory use of identity cards and the common badge
87. Rights of international observers
88. Obligations of international observers
89. Position of diplomats
90. Separate and joint operation of international observers

PART IX—DETERMINATION OF THE REFERENDUM QUESTION

91. Determination of the referendum question

PART X—COMPLAINTS AND APPEALS

92. Commission to decide on complaints
93. Appeals to the High Court
94. Parties not liable to pay costs

PART XI—OFFENCES AND PENALTY

95. Offences
96. General penalty

PART XII—MISCELLANEOUS

97. Validation of appointments, etc.
98. Preservation of the referendum documents

FIRST SCHEDULE

The Referendum Question

SECOND SCHEDULE

Special Interest Groups

THIRD SCHEDULE

Oath of Office of a Member of the Commission

WHEREAS in exercise of the powers conferred by subsection (1) of section 8A of the Constitution, I, NGWAZI DR. H. KAMUZU BANDA, Life President of Malaŵi, have called a referendum by which eligible citizens of Malaŵi shall be asked to cast their votes to determine the question set out in the First Schedule to these Regulations on the political system of Malaŵi, hereinafter referred to as the "referendum question":

NOW THEREFORE, in exercise of the powers conferred by subsection (2) of section 8A of the Constitution, I make the following Regulations—

PART I—PRELIMINARY

1. These Regulations may be cited as the Constitution (Referendum on Malaŵi's Political System) Regulations, 1993, and shall apply in relation to the conduct of the referendum to determine the referendum question. Citation and application

2. In these Regulations, unless the context otherwise requires— Interpretation
 "Commission" means the Referendum Commission established under regulation 3;

"irregularity", in relation to the referendum, means non-compliance with the requirements of these Regulations;

"national result of the referendum" means the final result of the referendum determined in accordance with regulation 74;

“polling station” means a place established as such under regulation 44;

“polling station officer” means an officer appointed as such under regulation 45;

“polling day” includes any other day to which voting is adjourned;

“presiding officer” means a polling station officer at a polling station who is designated by the Commission under regulation 45 as the presiding officer of that polling station;

“registration” means the registration of persons to vote or as voters in the referendum;

“referendum” means the entire process regulated by these Regulations;

“Referendum Supervisor” means the officer of the Commission designated as such under regulation 5;

“special interest group” means a group specified in the Second Schedule;

“voter” means a person registered to vote in the referendum;

“voters register” means the register of voters established under regulation 21;

“voters registration certificate” means a certificate issued to a voter under regulation 24.

Second
Schedule

PART II—THE REFERENDUM COMMISSION

Establish-
ment of the
Commission

3.—(1) For the purposes of the referendum, there is hereby established a body to be known as the Referendum Commission (in these Regulations otherwise referred to as the “Commission”) which shall consist of such number of persons as the President shall deem appropriate to appoint; and the President shall cause notice of the appointment of the Commission to be published in the *Gazette*.

(2) The Commission shall have power to determine its own procedures.

(3) The Commission may appoint such number of its own committees as it considers necessary for the performance of its functions and may assign to any of such committees any of its functions.

Functions
of the
Commission

4. The Commission shall exercise general direction and supervision over the conduct of the referendum and, without prejudice to the generality of such power, it shall have the following functions—

(a) to organize and direct the registration of voters;

(b) to devise and establish voters registers and ballot papers;

(c) to print, distribute and control ballot papers;

(d) to approve ballot boxes;

(e) to establish and operate polling stations;

(f) to take measures for ensuring that the entire referendum process is conducted under conditions of complete freedom and fairness;

(g) to establish security conditions necessary for the conduct of the referendum in accordance with these Regulations;

(h) to promote through the media and other appropriate and effective means the civic education of the citizens on the purpose of the referendum;

(i) to ensure that there is no hindrance to free and open discussion for or against either side of the referendum question;

(j) to ensure compliance with these Regulations and to adopt measures necessary to guarantee that the referendum is free and fair.

5.—(1) The Commission may appoint, on such terms and conditions of service as it shall determine, such number of officers and servants as it considers are required for the proper conduct of the referendum. Referendum officers

(2) There may be seconded to the service of the Commission such number of public officers as the Commission may request by writing to the Secretary to the President and Cabinet and a public officer so seconded shall perform his duties in relation to the referendum solely under the directions of the Commission.

(3) The Commission shall designate one of the officers appointed or seconded to its service as the Referendum Supervisor who shall be the chief executive officer of the Commission and shall supervise the affairs thereof subject only to the general or special directions of the Commission.

6. A member of the Commission shall hold office from the date of his appointment to a date occurring thirty days after the publication in the *Gazette* of the national result of the referendum but may sooner resign his office by notice in writing to the President. Term of office of members of the Commission

7.—(1) In discharging the functions of the Commission, the Commission and every individual member thereof shall act, and strive to be seen to act, independently of— Independence of the Commission

- (a) any public officer;
- (b) any organ of the Government;
- (c) any special interest group; or
- (d) any person whosoever or organization whatsoever,

but for the purpose only of accountability, the Commission and every individual member thereof shall be answerable, and shall report, directly to the President at the end of the entire referendum process on the overall fulfilment of the functions of the Commission.

(2) Upon assuming his office or immediately thereafter, every member of the Commission shall take oath of office before the President in the form set out in the Third Schedule. Third Schedule

8. Every member of the Commission, whether appointed by virtue of office or in personal or other capacity, shall receive such allowance as the President shall determine. Allowances

9. The Attorney General shall provide legal representation to the Commission in any court proceedings concerning appeals against its decisions on complaints and other issues about the referendum process and shall also be competent to provide general legal advice to the Commission. Legal representation

10. The Commission shall publish a notice in the *Gazette* specifying— Principal office, etc., of the Commission

- (a) the location of its principal office; and
- (b) its address or addresses, telephone numbers and other means of communication or contact with the Commission.

- Publicity** 11. The Commission shall establish its own publicity machinery and shall be free to communicate openly and equally with each special interest group or any person or organization.
- Funds** 12. The funds of the Commission shall consist of such sums as Parliament shall appropriate for the purpose and such other sums as may otherwise be received by the Commission.
- Duty to co-operate** 13.—(1) It shall be the duty of every relevant or competent public officer and public or private entity to co-operate with the Commission in its activities and to contribute towards the success of the referendum process and not to do any thing that might hinder such process.

(2) It shall be the special duty of—

(a) all District Commissioners, in their respective districts, to give the Commission and its officers the support and collaboration deemed by the Commission or its officers to be necessary for the execution of the activities connected with the conduct of the referendum;

(b) officers-in-charge of police, in their respective areas of operation, to take all necessary measures for the maintenance of law and order and stability necessary for the conduct of the referendum.

PART III—REGISTRATION OF VOTERS

- Eligibility** 14. Every citizen of Malawi residing in Malawi and who, on or before the polling day, shall have attained the age of twenty-one years shall be eligible to register as a voter in the referendum.
- Right and duty to register** 15. It shall be the right and the civic duty of every eligible citizen to present himself for registration as a voter in the referendum and further he shall have the right to verify with the Commission or its officers that he has been registered and to request that any error or omission with respect to his registration be corrected.
- Duty to promote registration** 16. The Commission shall, in accordance with these Regulations, create the necessary conditions and take all necessary actions for promoting awareness among the citizens of Malawi of the purpose of the referendum and of the need for their full participation in it.
- Single registration** 17. An eligible citizen shall be registered only once.
- Places of registration** 18. A person shall be registered as a voter in the area where he ordinarily resides.
- Temporary registration officers** 19.—(1) The Commission may employ temporary staff as registration officers who shall register voters in the referendum throughout Malawi.
- (2) No person shall be employed as a registration officer with respect to any local area of Malawi, unless—
- (a) he is a citizen of Malawi and has attained the age of twenty-one years;
- (b) he has attained the minimum educational qualification of Junior Certificate of Education or its equivalent; and
- (c) he has knowledge of the local language of the area.
- (3) Every registration officer shall, before commencing his duties, receive vocational training in the identification and registration of voters

and generally in the requirements of these Regulations with respect to the registration of voters.

(4) In the performance of their duties, registration officers shall be under the supervision of the Referendum Supervisor and such of the other officers of the Commission as he shall designate for the purpose.

20. The Commission shall establish centres throughout the Republic as places where voters are to be registered and for this purpose the Commission shall endeavour to adopt the current centres established for the registration of voters in presidential and parliamentary elections under the Registration of Voters Act in addition to establishing new centres.

Registration centres

Cap. 2:03

21. The Commission shall establish and acquire registration books or sheets for the registration of voters (in these Regulations referred to as "voters registers") and for that purpose may adopt and, as necessary, update the existing voters lists used for the registration of voters for presidential and parliamentary elections under the Registration of Voters Act.

Voters registers

Cap. 2:03

22. An eligible person wishing to be registered as a voter in the referendum shall in person present to a registration officer sufficient and cogent proof of his eligibility and may do so by producing—

Evidence of a person's eligibility to vote

(a) a passport, driver's licence, whether valid or not, tax certificate, marriage certificate, employment identity card or employment discharge certificate, birth certificate or other similarly authentic document of identity;

(b) written, verbal or visual testimony of another person, including personal recognition by the registration officer.

23. A person registered as a voter for presidential and parliamentary elections under the Registration of Voters Act and holding the voters registration certificate issued to him under that Act shall, without further procedure, be accepted as validly registered to vote in the referendum.

Automatic eligibility of registered voters in elections
Cap. 2:03

24.—(1) Upon a registration officer being satisfied with proof of eligibility of a person to vote, he shall—

Registration and issue of the voters registration certificate
Cap. 2:03

(a) issue to that person a voters registration certificate in the form of that issued to voters in parliamentary elections under the Registration of Voters Act;

(b) register that person in the voters register by entering the particulars of that person as prescribed therein.

(2) If a voters registration certificate issued to voter is lost, destroyed, defaced, torn or otherwise damaged, the voter shall notify the registration officer or other officer duly authorized in that behalf in writing giving proof thereof, and upon such officer being satisfied with such proof he shall issue to the voter a duplicate copy of that voter's original voters registration certificate with the words "DUPLICATE" clearly marked or printed on such copy.

25.—(1) In updating a voters register the registration officer shall do so by—

Updating of voters registers

(a) adding the names and other prescribed particulars of the voters resulting from new registration;

(b) drawing a line, without affecting legibility, over the particulars of the persons who have lost eligibility to vote in the referendum and indicating in the margin the reasons therefor.

(2) The registration officer making new entries in a voters register or deleting entries therefrom shall initial every such new entry or deletion.

(3) Upon the registration officer being satisfied with proof of loss of eligibility of a registered voter, he shall immediately update the voters register in accordance with the procedure under this regulation.

Initialling
of pages in
voters
registers

26. In the case of registration in a new voters register, the registration officer shall initial both sides of every page at a point where registration on the page ends.

Monitoring
of registra-
tion by
special
interest
groups

27.—(1) Every special interest group shall have the right to monitor the registration of voters and shall do so through its designated representatives assigned to a specified registration centre and whose names shall be notified in writing to the Commission, and in the absence of such notification by any special interest group it shall be presumed that such group does not desire to monitor the registration of voters at such registration centre.

(2) The Commission shall issue to every person designated as a representative under subregulation (1) a document of identity which the Commission shall devise for the purpose.

(3) There may be assigned to one registration centre more than one representative of a special interest group.

Rights and
duties of
representa-
tives of
special
interest
groups
and others

28.—(1) Representatives of special interest groups shall have the following rights—

(a) to be treated with due respect and consideration by all persons administering the referendum process and by the representatives of other special interest groups;

(b) to request and obtain information on activities relating to the registration of voters;

(c) to submit to the Commission, in writing, complaints and appeals about any irregularities in the registration of voters;

(2) It shall be incumbent upon the representatives of special interest groups in exercising their rights under subregulation (1)—

(a) to monitor the registration activities conscientiously and objectively;

(b) to co-operate in order to ensure that the registration activities proceed normally by avoiding unjustified interference in and obstacles to the work of registration officers;

(c) to refrain from submitting complaints or appeals in bad faith or with the purpose of paralysing the registration process.

(3) In addition to special interest groups and their representatives and international observers, any person eligible to be registered as a voter and any registered voter may, in writing, submit to the Commission complaints and appeals about any irregularity in the registration of voters.

(4) The Commission shall endeavour to determine every complaint or appeal relating to registration of voters before the polling day.

Period for
registration
of voters

29.—(1) Subject to subregulation (2), the period for the registration of voters shall be determined by the Commission and notified in the *Gazette*, being a period of not less than fourteen days expiring not less than seven days before the first polling day.

(2) The Commission may permit registration after the expiry of the period notified in the *Gazette* but before the first polling day of an eligible person who—

(a) has become eligible for registration since the expiry of the period;

(b) was temporarily unable to register on account of the duties of his office as confirmed in writing to the Commission by his superior or as otherwise sufficiently proved to the Commission;

(c) was unable to register for reasons of ill health as confirmed by the medical practitioner or medical officer who attended him.

30. At the close of registration, the registration officer shall sign off the voters register assigned to him and shall forward it for custody to the Referendum Supervisor or to such other officer as is designated by the Commission for the purpose and shall submit to such officer a summary of the total number of voters registered at the registration centre assigned to him.

Closing of registration

31. A voters register shall be open to inspection, for purposes of verifying the entries therein, by persons eligible to vote, representatives of special interest groups and international observers.

Voters register open to inspection

PART IV—CAMPAIGNING

32.—(1) All special interest groups shall have the right to campaign for or against either side of the referendum question and each group may conduct its campaign severally or jointly with any other.

Campaigning by special interest groups

(2) Campaigning by or in the name of any special interest group shall not be conducted in any public place unless the group has obtained the prior written permission of the relevant officer in charge of police who, upon granting such permission, shall notify the relevant District Commissioner.

(3) Permission of the officer-in-charge of police under subregulation (2) may be granted for one or several campaign meetings, and where there are competing requests for permission, he shall grant the permission in the order he has received the requests.

33. Campaigning in public by every special interest group under this Part shall close two days before the polling day.

Period of campaigning

34. Every public officer and public entity or authority shall give and be seen to give equal treatment to all special interest groups to enable each of the groups conduct its campaign freely.

Equal treatment of special interest groups

35. Every special interest group and every representative, member or supporter thereof shall enjoy complete and unhindered freedom of expression and information in the exercise of the right to campaign under these Regulations and no person shall, during or after the referendum period, be subjected to any criminal prosecution for any statement he made or any opinion he held or any campaign material he produced or possessed while campaigning in the referendum.

Freedom of expression and information

36. Subject only to regulation 32 (2), every special interest group and any representative, member or supporter thereof shall, either alone or in common with others, enjoy complete and unhindered freedom of peaceful assembly in campaigning in the referendum.

Freedom of assembly

Ethical norms during campaigning

37.—(1) Notwithstanding guarantees of freedom of expression, information and assembly under regulations 35 and 36, no person shall, in campaigning in the referendum, use language which is inflammatory, defamatory or insulting or which constitutes incitement to public disorder, insurrection, hate, violence or war.

(2) The Commission may prescribe a code of conduct to be complied with by every special interest group in conducting its campaign in the referendum.

Prohibition against disclosure of results of opinion polls

38. During the period of campaigning and until after the declaration of the results of the referendum, no person shall publish in any form the results of an opinion poll conducted amongst voters on the likely result of the referendum.

Prohibited places for campaigning

39. No person shall hold a campaign meeting under these Regulations in or within the premises of—

(a) military units or police stations;

(b) public institutions and workplaces during normal working hours;

(c) educational institutions during periods of classes.

News broadcasts and reports

40.—(1) Every special interest group shall have the right to have the substance of its campaign propaganda reported on radio news broadcasts of the Malawi Broadcasting Corporation and in any newspaper in circulation in Malawi:

Provided that in the case of radio broadcasts—

(a) no person shall be reported or be heard by his own voice;

(b) the content of the news shall be professionally determined by the Malawi Broadcasting Corporation;

(c) the Malawi Broadcasting Corporation shall maintain neutrality in the manner of reporting the news of the campaign propaganda of special interest groups and in its commentaries;

(d) the Commission shall monitor such news broadcasts and shall ensure equal news coverage of the campaigning by all special interest groups;

(e) no special interest group shall be entitled to make commercial advertising for its campaign.

(2) For the purposes of this regulation, "campaign propaganda" means any activity, statement or any other form of expression aiming directly or indirectly at promoting votes for or against either side of the referendum question.

Publication of books, pamphlets, etc.

41. During the campaign period any special interest group may, either alone or in common with others, publish campaign materials in the form of books, pamphlets, leaflets, magazines or newspapers and shall, in such publication specify particulars sufficient to identify the group or groups as the case may be.

Campaign posters

42. The District Commissioner shall, in consultation with the Commission, designate places or spaces in parts of his district on which may be posted or affixed campaign materials of special interest groups and every such group shall be entitled to equal access to such place or space, and in the absence of such designation every open or public place or space shall be deemed to have been so designated.

43. Every special interest group may, for the purpose of financing its campaign, appeal for and receive voluntary contributions from any individual or any non-governmental organization or other private organization in or outside Malawi. Campaign financing

PART V—POLLING STATIONS

44.—(1) The Commission shall establish polling stations throughout the Republic and there shall be one polling station for every centre for the registration of voters. Polling stations

(2) All polling stations shall be established and located in public buildings, including schools, community or social halls, administrative offices of the Government or local authorities, but not—

- (a) at a military unit or police station;
- (b) in a residential building;
- (c) in a building occupied by a special interest group;
- (d) in premises where alcoholic drinks are ordinarily sold or consumed;
- (e) places of worship or dedicated to worship;
- (f) hospitals or other health centres.

(3) The Commission shall, before the polling day, publish in the *Gazette* and in more than one issue of a newspaper in general circulation in Malawi and by radio announcements and by any other appropriate means the names of all places throughout Malawi at which polling stations have been established.

45.—(1) The Commission shall appoint polling station officers in its service whose duty shall be to administer the proceedings at polling stations, including more particularly the casting of votes. Polling station officers

(2) The Commission shall post to every polling station a sufficient number of polling station officers one whom the Commission shall designate as the presiding officer for that polling station and at least one of whom shall be a person able to speak the local language of the area of the polling station.

(3) Polling station officers may be appointed from amongst persons who served as registration officers and every person appointed as a polling station officer shall receive vocational training in his duties.

46. Every polling station officer shall, on the polling day, report for work at the polling station not later than thirty minutes before the opening time for the casting of votes at that polling station and at any given time of the polling day there shall be a majority of polling station officers attending to their business at the polling station. Working hours for polling station officers

47.—(1) The Commission shall ensure, in due time, that polling station officers at every polling station are supplied with all necessary items, namely— Work items for polling station officers

- (a) an authenticated copy of the voters register of the voters registered at the centre served by the polling station;
- (b) the ballot papers;
- (c) the ballot boxes;
- (d) the seals, sealing wax and envelopes for the votes; and
- (e) indelible ink.

Security of work items at polling stations

48. The presiding officers at polling stations and, in general, the Commission shall be responsible for creating and guaranteeing all necessary and indispensable conditions for the custody, conservation, security and inviolability of the items specified in regulation 47, including more particularly the ballot papers and ballot boxes.

Monitoring of voting by special interest groups

49.—(1) Every special interest group shall have the right to monitor the voting process at polling stations and shall do so through one or more of its designated representatives who shall be notified to the Commission in writing specifying their names and the polling stations to which they are to be assigned and in the absence of such notification by any group it shall be presumed that the group does not desire to monitor the voting process at that polling station.

(2) The Commission shall issue to every person designated as a representative of a special interest group under subregulation (1) a document of identity which the Commission shall devise for the purpose.

Rights and duties of representatives of special interest groups

50. Representatives of special interest groups shall have—

(a) the following rights—

(i) to be present at the polling stations and to occupy the nearest seats or positions to the polling station officers so as to be able to monitor all the operations relating to the casting of votes;

(ii) to verify and inspect, before the beginning of the casting of votes, the ballot boxes and the polling booths;

(iii) to request and obtain from the polling station officers any information which they consider necessary relating to the voting process;

(iv) to be consulted about any question raised on the operation of the polling station;

(v) to consult the voters registers at any time;

(b) the following duties—

(i) to act conscientiously and objectively in the exercise of their rights under this regulation;

(ii) to co-operate with polling station officers;

(iii) to refrain from interfering unjustifiably and in bad faith with the duties of the polling station officers.

PART VI—THE VOTE AND THE VOTING PROCESS

Characteristic of the vote

51.—(1) Voters shall be required to cast their votes to determine the referendum question which shall be put to them in such manner as shall be determined by the Commission.

(2) The right of a person to vote in the referendum shall be exercised individually by him and he shall be required to be physically present.

(3) Voting shall be by secret ballot.

(4) A voter may cast his vote only once.

Place where to cast the vote

52.—(1) Subject to subregulation (2), a person shall be allowed to exercise his right to vote at a polling station located at the registration centre where he is registered.

(2) If it is not possible for a person to vote at a polling station located at the registration centre where he is registered, the registration officer of that centre or other duly authorized officer may, at the request of such person, grant him written authorization in the form approved for the purpose by the Commission to vote at a polling station located in the place where he will be present on the polling day and in that case the polling station officers at such other polling station shall record in the manner prescribed by the Commission his name, the number of his voters registration certificate and the registration centre where he is registered:

Provided that the registration officer or other authorized officer may, on reasonable grounds, refuse to grant the request.

53.—(1) The Commission shall arrange for the printing of ballot papers in sufficient quantities according to the following requirements, that is to say, that each ballot paper—

The ballot paper

(a) shall be in a bound batch or book of ballot papers with serial numbers;

(b) shall be in two parts, both bearing the same serial number separated by a perforated line, with the outer part being larger than the inner part and bearing distinct marks or features as safeguards against counterfeit and other fraudulent reproduction thereof.

(2) The outer part of the ballot paper shall be used by voters for casting their votes in accordance with these Regulations.

54. The Commission shall establish one voting booth or more at each polling station and a voting booth shall be constructed in such a way as to completely screen a voter from observation while he is casting the ballot paper in the ballot box.

Voting booths

55.—(1) The Commission shall procure ballot boxes of suitable material, specification and design for use in the casting of votes by voters.

Ballot boxes

(2) Subject to satisfying the requirements of these Regulations, on the polling day the presiding officer shall place in each voting booth at that polling station two ballot boxes, separately positioned and distinctly marked with colour or symbol or with both colour and symbol, one for votes in favour of one side of the referendum question and the other for votes in favour of the other side of the referendum question.

(3) The positioning of the two ballot boxes in a voting booth shall be such that when a voter is casting his vote in a ballot box he is completely screened from observation by any other person.

56. Notwithstanding any provision to the contrary in any contract of employment, all persons in paid employment, including those working by shift, shall have the right to be released for the necessary time to exercise their right to vote.

Right of employees to be released for voting

57. On the polling day voting shall begin at 6 o'clock in the morning and close at 6 o'clock in the evening, but before voting begins the presiding officer, together with the other polling station officers and representatives of special interest groups, shall verify that there are no irregularities with any voting booth and the working documents and other work items of the polling station officers and, shall, in particular, exhibit in front of all present each of the two ballot boxes to verify that it is empty.

Hours of voting

58. Upon verification in accordance with regulation 57 that there are no irregularities, the first persons to be allowed to vote shall be the

Order of voting

presiding officer, the other polling station officers, representatives of the special interest groups and all officers responsible for ensuring order and security at the polling station after whom all other persons shall vote according to the order of their arrival at the polling station and, to this end, they shall form a line; but subject thereto, the presiding officer shall exercise general authority for keeping order at the polling station and for regulating the number of persons to be admitted to vote at any time and may, if circumstances so require, use his discretion to allow certain persons to vote inconsistently with the order of priority required by this regulation.

The
President
may not
vote

59. The President may not vote in the referendum.

Continuity
of the voting
process

60. Subject to regulation 61, voting at every polling station shall continue uninterrupted until closed.

Adjournment
in certain
cases

61.—(1) Voting at any polling station may be adjourned to another day to be fixed by the Commission if—

(a) the polling station officers are unable to assemble at that polling station in accordance with these Regulations;

(b) there occurs some commotion which causes voting to be interrupted for more than three hours;

(c) in the area where the polling station is located there has occurred some public disaster or a serious disturbance of public order, not being death of any person, which affects the voting.

(2) Where voting has been adjourned to another day under sub-regulation (1)—

(a) the hours of voting on that day shall be the same as for the original day;

(b) the voting process shall be conducted afresh and not as continuing from the original day;

(c) the votes cast on the original day shall be null and void and shall be classified as such in the records of that polling station prepared under regulation 71.

Prohibited
presence,
etc., at
polling
stations

62.—(1) No form of propaganda, campaign material or advertisement shall be exhibited inside a polling station or within a radius of one hundred metres outside a polling station.

(2) Unless his presence is otherwise permitted under these Regulations, no person shall be allowed within the premises of a polling station or to remain within the premises of a polling station if—

(a) he is not a registered voter;

(b) he has already voted at that polling station or at any other polling station.

(3) A person who is present at a polling station as an agent of a media organization shall—

(a) identify himself to the polling station officers by presenting his credentials from the organization he represents;

(b) refrain from taking pictures close to a polling booth.

(4) No person shall be present at a polling station in the capacity of a member of the armed forces or the police or as a member of any paramilitary force or a uniformed organization, unless he is employed in the service of the Commission or has been invited by the presiding officer for purposes of keeping order.

(5) The presiding officer shall take all necessary steps to effectively bar or expel from within a radius of one hundred metres of a polling station any person who is evidently drunk and disorderly or is carrying a weapon of any kind or is disturbing the order and the peace at the polling station.

63. For a person to be allowed to vote he must first present to the polling station officers his voters registration certificate and must not yet have exercised his right to vote.

Requirements for exercising the right to vote

64.—(1) To be able to cast a vote at any polling station, a voter shall present himself to the polling station officers and hand to them his voters registration certificate whereupon the polling station officers shall proceed to verify his identity by examining the voters register.

Manner of casting the vote

(2) If the polling station officers are satisfied with the identity of a voter in accordance with subregulation (1), they shall—

(a) mark his voters registration certificate and record his name and registration number;

(b) dip the right index finger of the voter in indelible ink provided for the purpose to the polling station officers after which the presiding officer or other polling station officer authorized in that behalf shall hand to the voter the outer part of a ballot paper perforated from the inner part and direct him to a voting booth.

(3) In a voting booth the voter shall cast the ballot paper into the ballot box corresponding to the side of the referendum question which he favours.

(4) If, inadvertently or for any reason whatsoever, the voter does not use the ballot paper handed to him he shall ask for another from the presiding officer and return the first ballot paper to the presiding officer who shall write on the returned ballot paper a note indicating that it is unused to be dealt with as an unused ballot paper.

65. A voter who is blind or is affected by disease or other physical disability may vote accompanied by a polling station officer or another registered voter of his own choice who shall assist such person in casting his vote and shall act faithfully to the wish expressed by such person and with absolute secrecy regarding the vote cast by such person.

Voting by blind and disabled persons

66.—(1) A vote cast is null and void if—

(a) the ballot paper has been torn into two or more parts; or

(b) has been classified as such pursuant to regulation 61 (2) (c) or 69 (3).

Null and void votes

(2) A null and void vote shall not be regarded as valid and shall not be counted in determining the results of the referendum.

67.—(1) In addition to representatives of special interest groups, any voter present at a polling station may raise doubts and present in

Doubts and complaints

writing complaints relating to the voting at the polling station and shall have the right to obtain information from the polling station officers and from relevant documents available at the polling station.

(2) No polling station officer shall refuse to receive a complaint presented to him under subregulation (1) and shall initial every such presentation and annex it as part of the official record of the polling station.

(3) Any presentation received by polling station officers under this regulation shall be deliberated upon among, and be resolved by, the polling station officers who may, if necessary in their opinion to enable the voting process to proceed, postpone such deliberation or resolution until the end of the voting process.

Procedure
at close
of the poll

68.—(1) At the close of the poll at any polling station, the presiding officer shall—

(a) proceed by first collecting together all unused ballot papers and batches or books containing stubs of used ballot papers and placing them in a separate envelope or in separate envelopes provided to him by the Commission for the purpose and then sealing the envelope or envelopes and stamping and initialling over the sealed area;

(b) in full view of other polling station officers and, if any be present, representatives of special interest groups, seal, in the manner prescribed by the Commission, the two ballot boxes with the votes therein uncounted and legibly mark on each box the name of the polling station;

(c) dispatch the two boxes and the envelope or envelopes so sealed to the District Commissioner of his district by the quickest and most secure means possible;

(d) cause to be prepared by the polling station officers a record of the entire polling process at his polling station containing—

(i) the full particulars of the polling station officers and representatives of special interest groups;

(ii) the number of unused ballot papers;

(iii) complaints and responses thereto, if any, and the decisions thereon taken by the polling station officers;

(iv) any other occurrence which the polling station officers consider to be important to record;

(e) prepare a summary of the record under paragraph (d).

(2) The record and summary prepared under subregulation 1 (d) and (e) shall be legibly signed by the presiding officer and each of the polling station officers. Representatives of special interest groups shall be entitled to receive a copy of such duly signed summary.

(3) Representatives of special interest groups shall have the right to—

(a) observe the transportation and the handling of the ballot boxes and the envelopes from a polling station to the office of the District Commissioner until they are opened for counting under Part VI and, for that purpose, to be carried in the vehicles or vessels transporting the ballot boxes; and

(b) observe the counting of votes under Part VI.

PART VI—DETERMINATION OF RESULTS

69. Counting of the votes shall be done at the office of the District Commissioner and under his supervision or under the supervision of a duly authorized officer of the Commission and, unless the Commission otherwise directs, shall not commence until ballot boxes from every polling station in the district have been received at the office of the District Commissioner.

Opening of
ballot
boxes and
counting
of votes

(2) To begin the counting of votes, the District Commissioner or a duly authorized officer of the Commission shall open one ballot box at a time in full view of all persons present after verification by all such persons that the box has not been materially tampered or interfered with and shall order the counting of the votes in that box to proceed.

(3) Where it is determined that a ballot box has been materially tampered or interfered with, the votes in that box shall be counted but shall be classified as null and void votes.

(4) Counting of votes shall continue uninterrupted until concluded.

70. The votes counted shall be classified into—

- (a) votes for the one-party system of government with the Malawi Congress Party as the sole political party;
- (b) votes for the multiparty system of government; and
- (c) null and void votes.

Classifica-
tion of
votes
counted

71.—(1) At the close of the counting of the votes, the District Commissioner or a duly authorized officer of the Commission shall prepare a record of the result of the referendum for his district showing—

Record of
the counting
of the votes

(a) with respect to each polling station—

- (i) the total number of the persons who voted;
- (ii) the total number of votes for or under each classification of votes as specified in regulation 70; and
- (iii) the discrepancies, if any, between the votes counted and the number of persons who voted;
- (iv) the full particulars of the polling station officers and the representative of the special interest groups who accompanied the ballot boxes from each polling station to the office of the District Commissioner and of the vehicles or vessels used as means of conveyance.

(b) with respect to the entire district—

- (i) the total number of votes of persons who voted;
- (ii) the total number of votes for or under each classification of votes as specified in regulation 70;
- (iii) the discrepancies, if any, between the votes counted and the number of persons who voted;
- (iv) the complaints thereto received by him with respect to the transportation and handling of ballot boxes from polling stations and to the counting of the votes and his decisions thereon.

(2) The record prepared under subregulation (1) shall be legibly signed by the District Commissioner or other officer supervising the counting and representatives of special interest groups shall be entitled

to receive a copy of the duly signed record or a duly signed summary thereof.

Announcement of the district result of the referendum

72. At the close of the counting of votes, the District Commissioner or other officer supervising the counting shall announce aloud to all present the result of the referendum in his district as recorded under regulation 71.

Delivery of records, etc., from districts

73. The District Commissioner or a duly authorized officer of the Commission shall deliver to the Referendum Supervisor under conditions of absolute security against loss, tampering or interference—

- (a) the record prepared under regulation 71;
- (b) all the ballot papers collected in separate lots corresponding to the classification under which they were counted;
- (c) all unused ballot papers received from polling stations;
- (d) the records of the polling process received from polling stations;
- (e) all voters registers returned from polling stations.

Determination of the national result of the referendum

74.—(1) The Commission shall determine and publish the national result of the referendum based on the records delivered to it from the districts.

(2) The determination of the national result of the referendum shall begin immediately after the Commission has received records from all districts and shall, subject only to subregulation (3), continue uninterrupted until concluded.

(3) If a record from any district or other element necessary for the continuation and conclusion of the determination of the national result of the referendum is missing, the Chairman of the Commission shall take necessary steps to rectify the situation and may, in such case, suspend the determination for a period not exceeding forty-eight hours.

(4) Representatives of special interest groups designated in writing to the Commission shall be entitled to observe the determination of the national result of the referendum.

Analysis of complaints prior to determination of the national result

75. At the beginning of determining the national result of the referendum, the Commission shall take a decision on any matter which has been a subject of a complaint and shall examine the votes which have been classified as null and void and may affirm or correct the determination thereof at the polling stations and at the offices of District Commissioners but without prejudice to the right of appeal conferred under regulation 93.

Records of the national result of the referendum

76. The Commission shall summarize its determination of the national result of the referendum in a written record, indicating—

- (a) the national result of the referendum as determined;
- (b) complaints and responses thereto and the decisions taken on them,

and the Chairman of the Commission shall under his hand submit the summary to the President and send copies thereof to each of the special interest groups.

77. The Commission shall publish in the *Gazette* and by radio broadcast and in at least one issue of a newspaper in general circulation in Malawi the national result of the referendum within eight days from the last polling day and not later than forty-eight hours from the conclusion of the determination thereof and shall, in such publication, specify—

Publication of the national result

- (a) the total number of voters registered for the referendum;
- (b) the total number of voters who voted;
- (c) the total number of null and void votes; and
- (d) the total number of valid votes cast for each side of the referendum question.

PART VIII—INTERNATIONAL OBSERVATION

78. For the purpose of these Regulations, international observation means the verification of the various stages of the referendum process by international organizations, non-governmental organizations, foreign governments and foreign personalities duly recognized for the purpose in accordance with this Part.

Meaning of International observation

79.—(1) International observation shall consist of the following activities—

Scope of international observation

- (a) to verify and monitor the impartiality and the functioning of the Commission and its officers in conformity with these Regulations;
- (b) to verify and monitor the impartiality and legality of the decisions taken by the Commission and its officers in settling referendum disputes;
- (c) to verify and monitor the registration of voters;
- (d) to observe the course of the referendum campaigning;
- (e) to verify and monitor the voting process;
- (f) to verify and monitor the determination of the referendum results; and
- (g) to observe the access to and the use of the media.

(2) Any irregularities noted by international observers shall be reported to the Commission or to the competent officers of the Commission and the Commission or such officers shall examine the activities reported as irregularities and shall, where the irregularities are confirmed, take corrective measures necessary to bring the referendum process into conformity with these Regulations.

80. International observation shall begin with the appointment of the Commission and end with the determination of the national result of the referendum or the settlement thereafter of all referendum disputes.

Beginning and end of international observation

81. A citizen of Malawi, wherever ordinarily resident, shall not qualify to serve as an international observer.

Citizens not to be international observers

82. It shall be the duty of the Commission, every officer thereof and every competent public officer or other competent authority in Malawi to co-operate with international observers in their role and to offer to them the guarantees and other facilities necessary to fulfil their role.

Co-operation by competent authorities

- Invitation to international observers** 83. The Commission may send invitations for international observation and may do so on its own initiative or on request by the President or by a special interest group or by any government, organization or person competent under these Regulations to undertake international observations.
- Categories of observers** 84.—(1) For purposes of recognition under these Regulations, international observers shall be categorized as follows—
- (a) observers from the United Nations Organization and its agencies, the Organization of African Unity and its agencies, the Commonwealth Secretariat and other international organizations;
 - (b) observers from non-governmental organizations constituted and operating in any foreign country;
 - (c) observers from foreign governments; and
 - (d) individual observers.
- (2) A person shall not be recognized as an international observer unless—
- (a) in the case of the first three categories specified in sub-regulation (1), he has been designated by the relevant organization or foreign government in writing to the Commission disclosing his particulars and credentials;
 - (b) in the case of the category of individual observers, he is a person of recognized international experience and prestige.
- Recognition and identification of international observers** 85. Recognition of international observers on arrival in Malaŵi shall be granted by the Commission which, for that purpose, shall—
- (a) establish adequate procedures for the proper and timely recognition of the observers;
 - (b) devise an identity card for each category of international observers and issue to every recognized observer the card corresponding to his category;
 - (c) devise a common and easily identifiable badge for all international observers and issue the badge to every recognized international observer.
- Compulsory use of identity cards and the common badge** 86. Every international observer recognized under these Regulations shall, while exercising his functions, use the identity card and the badge issued to him.
- Rights of international observers** 87. International observers shall, in Malaŵi, have the right—
- (a) to obtain a multiple entry visa to enter Malaŵi for the duration of the referendum period;
 - (b) to have unimpeded access to all referendum events and to observe all aspects of the civic education programmes, the registration of voters, the campaigning, the voting, the counting of votes and the settlement of referendum disputes.
 - (c) to enjoy freedom of circulation throughout Malaŵi;
 - (d) to seek and obtain information on the organs involved in the referendum process and regarding the process itself;
 - (e) to communicate freely with all special interest groups and with any organization or person;

(f) to have access to information transmitted by or to the Commission and its officers;

(g) to have access to complaints and responses thereto about any occurrence or matter relating to the referendum process;

(h) to open offices within Malawi for the performance of their functions;

(i) to communicate any specific concerns they may have to members and officers of the Commission; and

(j) to communicate to the local and international media.

88.—(1) International observers shall have the following obligations—

Obligations of international observers

(a) to exercise their role with impartiality, independence and objectivity;

(b) to respect the Constitution and the laws of Malawi;

(c) not to interfere in, or to impede, the normal course of the referendum process;

(d) to provide to the Commission copies of written information and statements which they have produced; and

(e) to return the identity cards, the badge and any other identification material issued to them by the Commission after the end of their mission as observers.

(2) The Commission may revoke the accreditation of any international observer who persistently violates the obligations laid down in subregulation (1) and thereupon his status as an international observer shall cease.

89. Diplomats accredited to Malawi who are designated and recognized as international observers under these Regulations shall exercise their functions as such international observers without prejudice to their status and positions as such diplomats.

Position of diplomats

90. International observers may operate separately or jointly with other international observers of the same or a different category.

Separate and joint operation of international observers

PART VIII—DETERMINATION OF THE REFERENDUM QUESTION

91.—(1) The referendum question shall be considered to have been determined in favour of that side of the referendum question favoured by more than 50 per cent of the national result of the votes.

Determination of the referendum question

(2) If the votes for each side of the referendum question are equal, voting shall be repeated on a new polling day which the Commission shall determine and the process subsequent to voting as provided in these regulations shall also be repeated until a majority of the votes for either side of the referendum question is obtained.

PART IX—COMPLAINTS AND APPEALS

92. Any complaint submitted in writing alleging any irregularity with any aspect of the referendum process at any stage, if not satisfactorily resolved at a lower level of authority, shall be examined and decided by the Commission and where the irregularity is confirmed the Commission shall take necessary action to correct the irregularity and the effects thereof.

Commission to decide on complaints

Appeals
to the High
Court

93.—(1) An appeal shall lie to the High Court against a decision of the Commission confirming or rejecting the existence of an irregularity and such appeal shall be made by way of a petition, supported by affidavits of evidence, which shall clearly specify the declaration the High Court is being requested to make by order.

(2) On hearing a petition under subregulation (1), the High Court shall make such order as it thinks fit.

Parties not
liable to pay
costs

94. No party to proceedings before the High Court under regulation 93 shall be condemned to pay costs.

PART X—OFFENCES AND PENALTY

Offences

95. A person who—

(a) in relation to registration of voters—

- (i) obtains his registration by giving false information;
- (ii) gives false information to obtain his registration or the registration of another person;
- (iii) obtains registration at more than one registration centre;
- (iv) registers another person knowing that that other person is not eligible for registration;
- (v) prevents the registration of another person knowing that that person is eligible for registration;
- (vi) having the authority to do so, does not delete a registration which he knows to be incorrect;
- (vii) falsifies a voters register;
- (viii) with fraudulent intent, modifies or substitutes a voters registration certificate;
- (ix) through violence, threat or fraudulent intent, prevents the registration of another person;
- (x) knowingly obstructs the detection of incorrect registration or verification of voters registers;

(b) in relation to campaigning—

- (i) holds a public meeting without the permission under regulation 32 (2);
- (ii) prevents the holding, or interrupts the proceedings, of a public meeting authorized under regulation 32 (2);
- (iii) denies any special interest group equal treatment with any other special interest group;
- (iv) destroys, defaces, tears or in any manner causes to be totally or partially useless or illegible any campaign material displayed in an authorized place or space or superimposes thereon any other material concealing the first;
- (v) is entrusted, by virtue of his office or functions, with displaying or depositing in an authorized place or space any campaign material, fails to display or deposit such campaign material or misplaces, steals or destroys such material;
- (vi) publishes the results of an opinion poll on the likely outcome of the referendum;
- (vii) contravenes regulation 37;
- (viii) because another person attended or did not attend any campaign meeting, directly or indirectly, dismisses or threatens

to dismiss that other person from employment or other gainful occupation or prevents or threatens to prevent that other person from obtaining employment or other gainful occupation or from continuing in gainful occupation or applies or threatens to apply any sanction whatsoever to that other person;

(c) in relation to voting—

(i) not being otherwise authorized to be present or not being a registered voter knowingly presents himself at a polling station;

(ii) not being eligible to vote, casts a vote at any polling station;

(iii) fraudulently uses the identity of another person in order to exercise the right to vote;

(iv) consciously allows that the right to vote be exercised by a person who does not have that right;

(v) votes more than once;

(vi) accompanying a blind or a disabled person to vote, discloses the vote expressed by that person;

(vii) within a radius of one hundred metres of a polling station, reveals his vote or procures another person by force or deceit to reveal that other person's vote;

(viii) uses or threatens violence or uses false information or other fraudulent means to coerce or induce another person to vote for a particular side of the referendum question or to abstain from voting;

(ix) being a public officer, uses his office to coerce or induce another person to vote for a particular side of the referendum question or to abstain from voting;

(x) directly or indirectly, dismisses or threatens to dismiss another person from employment or other gainful occupation or prevents or threatens to prevent another person from obtaining employment or other gainful occupation or from continuing in gainful occupation or applies or threatens to apply any sanction whatsoever to another person in order to induce that other person to vote for or not to vote for, or because that other person voted for or did not vote for, a particular side of the referendum question or because that other person abstained from voting;

(xi) being a presiding officer of a polling station, fails to display a ballot box in accordance with the requirements of these Regulations;

(xii) illicitly introduces ballot papers in a ballot box before, during or after the voting;

(xiii) fraudulently takes possession or conceals a ballot box with uncounted ballot papers or removes an uncounted ballot paper from a ballot box;

(xiv) being a polling station officer, purposely neglects his duty with a view to occasioning an irregularity;

(xv) being a polling station officer, unjustifiably refuses to receive a complaint or a response to a complaint about the proceedings at his polling station or to examine and seek to resolve it;

(xvi) disturbs the regular functioning of a polling station;

(xvii) refuses to leave a polling station after being asked to do so by a polling station officer;

(xviii) being an officer-in-charge of police requested to assign police officers to keep order at a polling station, fails without justification to do so within a reasonable time;

(xix) being a police officer assigned to keep order at a polling station wilfully neglects his duties;

(d) in any manner, fraudulently spoils, substitutes, conceals, destroys, amends or falsifies any document relating to the referendum process;

(e) in bad faith, submits a complaint or response to a complaint or challenges or questions the decisions thereon by a competent person or body;

(f) without justification, neglects to fulfil obligations imposed on him by or under these Regulations,

shall be guilty of an offence.

**General
penalty**

96.—(1) A person guilty of an offence under these Regulations for which no other penalty has been specified shall be liable to a fine of K1,000 and to imprisonment for six months.

(2) In addition to the penalty under subregulation (1), the court may make an order—

(a) where applicable, barring the convicted person from performing the duties of his office in connexion with the referendum;

(b) suspending the right of the convicted person to vote in the referendum; and

(c) having regard to the nature of the activity constituting the offence, giving such directions as the court considers to be warranted in the circumstances.

PART XII—MISCELLANEOUS

**Validation of
appoint-
ments, etc.**

97. Any appointment to the Commission made, and any thing done preparatory to the referendum, before the commencement of these Regulations and which is capable of being made or done under these Regulations shall be deemed to have been properly and validly made or done in accordance with these Regulations, but without prejudice to the right of the Commission to vary the thing so done in the exercise of its powers and duties under these Regulations.

**Presentation
of the
referendum
documents**

98. At the end of its functions, the Commission shall deposit all documents forming the official record of the referendum (including voters registers, ballot papers, records from districts and polling stations and summaries thereof and the record and summary of the national result of the referendum) with the Clerk of Parliament who shall retain and preserve such documents in safe and secure custody without destruction for a period of not less than seven years.

FIRST SCHEDULE

Preamble

REFERENDUM QUESTION

Do you wish that Malawi remains with the one-party system of government with the Malawi Congress Party (MCP) as the sole political party or do you wish that Malawi changes to the multiparty system of government?

SECOND SCHEDULE
SPECIAL INTEREST GROUPS

reg. 2

1. The Malawi Congress Party (MCP)
2. The Alliance for Democracy (AFORD)
3. The United Democratic Front (UDF)
4. The Public Affairs Committee (PAC)

THIRD SCHEDULE
OATH OF OFFICE OF MEMBER OF THE COMMISSION

reg. 7 (2)

I,, having been appointed to the office of Member of the Referendum Commission, established under the Constitution (Referendum on Malawi's Political System) Regulations, 1993, do swear that I will well and truly serve the Republic of Malawi in that office. So help me God.

Signed

Before me this day of , 19.....

President

OR

I,, having been appointed to the office of Member of the Referendum Commission, established under the Constitution (Referendum on Malawi's Political System) Regulations, 1993, do solemnly, sincerely and truly declare and affirm that I will well and truly serve the Republic of Malawi in that office.

Signed

Before me this day of , 19.....

President

Made this 4th day of February, 1993.

(FILE NO. 11/05/6)

H. KAMUZU BANDA
Life President



**NEW
DOCUMENT**

The Malawi Gazette Supplement, dated 28th May, 1993, containing
Regulations, Rules, etc. (No. 22A)

GOVERNMENT NOTICE NO. 57

CONSTITUTION OF MALAWI
CONSTITUTION (REFERENDUM ON MALAWI'S POLITICAL SYSTEM)
(AMENDMENT) (NO. 2) REGULATIONS, 1993

IN EXERCISE of the powers conferred by section 8A of the Constitution, I, NGWAZI DR. H. KAMUZU BANDA, Life President of Malawi, hereby make the following Regulations—

1. These Regulations may be cited as the Constitution (Referendum on Malawi's Political System) (Amendment) (No. 2) Regulations, 1993. Citation
2. The Constitution (Referendum on Malawi's Political System) Regulations (hereinafter referred to as the "principal Regulations") are amended, in regulation 29— Amendment
of reg. 29
of G.N. 5,
of 1993
 - (a) in subregulation (1), by deleting the words "(1) Subject to subregulation (2), the" and substituting therefor the word "The";
 - (b) by deleting subregulation (2).
3. Regulation 41 of the principal Regulations is deleted and replaced by the following— Replacement
of reg. 41
of the
principal
Regulations

"Publication of books, pamphlets, etc. Cap. 21:01

41. Subject to the provisions of any rules made under section 24A of the Censorship and Control of Entertainments Act, during the campaign period any special interest group may, either alone or in common with others, publish campaign materials in the form of books, booklets, pamphlets, leaflets, magazines or newspapers and shall, in any such publication specify particulars sufficient to identify the group or groups as the case may be:

Provided that nothing in this regulation shall be construed as authorizing the publication, distribution or circulation of any publication the importation or publication of which is prohibited under section 46 of the Penal Code.
4. Regulation 47 of the principal Regulations is amended— Amendment
of reg. 47
of the
principal
Regulations
 - (a) by deleting paragraph (b), and substituting therefor the following—
 - (b) the ballot papers and accompanying envelopes for use by voters in casting their votes;"
 - (b) in paragraph (c), by deleting the word "boxes" and substituting therefor the word "box";
 - (c) by adding thereto the following new paragraphs—
 - "(f) record sheets for the record required under regulation 71;
 - (g) a special container to be positioned in the polling booth into which a voter shall deposit the ballot paper he has discarded;
 - (h) a lamp or lamps to be lit and used for counting votes at the close of the poll."

Amendment
of reg. 51
of the
principal
Regulations

5. Regulation 51 of the principal Regulations is amended by deleting subregulation (4) and substituting therefor the following new subregulation—

“(4) A voter shall be entitled to cast his vote only once and one person shall have one vote”.

Replacement
of reg. 53
of the
principal
Regulations

6. Regulation 53 of the principal Regulations is deleted and replaced by the following new regulation—

“Ballot papers and accompanying envelopes 53.—(1) The Commission shall arrange for the printing in sufficient quantities of two distinctly identifiable ballot papers, one displaying the agreed symbol for the choice of voters favouring the one party system of government and the other displaying the agreed symbol for the choice of voters favouring the multi-party system of government.

(2) In addition to the two ballot papers as required under subregulation (1), the Commission shall procure specially printed envelopes for use by voters in casting their votes in accordance with the requirements of regulation 64”.

Amendment
of reg. 54
of the
principal
Regulations

7. Regulation 54 of the principal Regulations is amended by deleting the words “while he is casting the ballot paper in the ballot box” and substituting therefor the words “when he is selecting one ballot paper and discarding the other ballot paper according to his choice”.

Amendment
of reg. 55
of the
principal
Regulations

8. Regulation 55 of the principal Regulations is amended by deleting subregulations (2) and (3) and substituting therefor the following new subregulation—

“(2) Subject to satisfying the requirements of these Regulations, on the polling day, the presiding officer of a polling station shall position in respect of each voting booth at that polling station one ballot box in such a way that when voters cast their votes in the ballot box they shall do so in full view of the polling station officers and other officials present thereat.”.

Amendment
of reg. 64
of the
principal
Regulations

9. Regulation 64 of the principal Regulations is amended—

(a) in subregulation (2), paragraph (b), by deleting the words “outer part of a ballot paper perforated from the inner part” and substituting therefor the words “two ballot papers, one for each side of the referendum question, and one specially printed envelope for use by the voter in accordance with subregulation (3)”;

(b) by deleting subregulation (3), and substituting therefor the following new subregulation—

“(3) The voter shall while in the voting booth enclose in the envelope handed to him with the ballot papers the ballot paper corresponding of the side of referendum question which he favours and discard the other ballot paper into a container positioned in the voting booth and shall then emerge from the voting booth and cast the envelope in the polling box in full view of the polling stations officers and other officials present thereat.”;

(c) by deleting subregulation (4).

<p>10. Regulation 66 of the principal Regulations is amended in sub-regulation (1)—</p>	<p>(a) in paragraph (b), by deleting the words "or 69 (3)";</p> <p>(b) by adding thereto the following new paragraph—</p> <p>“(c) the envelope used for casting the vote contains two or more ballot papers.”.</p>	<p>Amendment of reg. 66 of the principal Regulations</p>
<p>11. Regulations 68 to 73 of the principal Regulations are deleted and replaced by the following new regulations—</p>	<p>“PART VII—DETERMINATION OF RESULTS</p>	<p>Replacement of regs. 68 to 73, inclusive</p>
<p>Unused ballot papers</p>	<p>68. At the close of the poll at any polling station, the presiding officer shall proceed by first collecting together and separately all unused ballot papers and placing them in a separate envelope provided to him for the purpose by the Commission and then sealing the envelope and initialling or stamping it over the sealed area.</p>	
<p>Classification of votes cast</p>	<p>69. For the purposes of determining the results of the referendum at a polling station and, in particular, in counting the votes thereat, the votes cast at a polling station shall be separately classified into—</p> <p>(a) null and void votes;</p> <p>(b) votes for the one party system of government; and</p> <p>(c) votes for the multi-party system of government.</p>	
<p>Opening of the ballot box and counting of votes</p>	<p>70. After the close of the poll at any polling station, and only thereafter, the presiding officer shall, in the presence of other polling station officers and representatives of special interest groups if any be present, open the ballot box and order the counting of the votes to proceed according to a procedure entailing the polling station officers—</p> <p>(a) picking out of the ballot box one envelope at a time and then opening the envelope and displaying the ballot paper or papers to all present and announcing the classification of the vote as specified in regulation 69;</p> <p>(b) recording on a sheet of paper provided to the polling station officers for the purpose, showing the classification of votes, the votes cast for each classification;</p> <p>(c) displaying the already announced ballot papers and separating them into lots corresponding to each classification; and</p> <p>(d) announcing, through the presiding officer, the number of votes cast at the polling station under each classification.</p>	
<p>Record of the polling process</p>	<p>71.—(1) The presiding officer shall cause to be prepared by the polling station officers—</p> <p>(a) a record of the entire polling process at his polling station containing—</p>	

(i) the full particulars of the polling station officers and representatives of special interest groups;

(ii) the total number of votes;

(iii) the total number of votes for or under each classification of votes;

(iv) the number of unused ballot papers;

(v) the number of ballot papers which have been the subject of complaints;

(vi) the discrepancies, if any, between votes counted and the number of voters;

(vii) the number of complaints and responses thereon and decisions taken thereon by the polling station officers;

(viii) any other occurrence which the polling station officers consider to be important to record;

(b) a brief summary of the final result,

and such record and summary shall be legibly signed by the presiding officer and each of the other polling station officers and by at least one representative of each special interest group if any be present.

(2) Representatives of special interest groups at a polling station shall be entitled to a copy of the duly signed summary of the final result at that polling station.

Delivery of
ballot papers,
etc., from
polling
stations

72. The presiding officer of a polling station shall, with all dispatch, deliver to the office of the District Commissioner of his district under conditions of absolute security against loss, tampering or interference—

(a) the record prepared under regulation 71;

(b) all the ballot papers collected in separate lots corresponding to the classification under which they were counted;

(c) all unused ballot papers;

(d) all voters registers and other work items provided to that polling station."

Compilation
of the
district result
of the
referendum

73.—(1) On receipt of records of the referendum process from polling stations, the District Commissioner or an officer of the Commission duly authorized in that behalf shall, at the office of the District Commissioner, compile the result of the referendum in his district on the basis of the duly signed summaries received with such records and shall prepare, on the appropriate sheets provided for the purpose by the Commission, a record in respect of the entire district showing—

(a) the total number of persons who registered as voters;

(b) the total number of persons who voted;

(c) the total number of votes for or under each classification of votes in accordance with regulation 66;

(d) the discrepancies, if any, between the votes counted and the number of persons who voted:

(e) the complaints, if any, received by him and his decisions thereon.

(2) Representatives of special interest groups, duly designated for the purpose, shall be entitled to observe the entire procedure followed at the office of the District Commissioner in compiling the district result of the referendum under subregulation (1).

(3) The record prepared under subregulation (1) shall be legibly signed by the District Commissioner or other officer supervising the compilation thereof and by at least one duly designated representative of every special interest group, if any be present, and such representative shall be entitled to receive a copy of the record.

(4) The District Commissioner or a duly authorized officer of the Commission shall, with all dispatch, deliver to the Referendum Supervisor under conditions of absolute security against loss, tampering or interference—

(a) the record prepared under subregulation (1); and

(b) all items received from all polling stations in the district concerned.

12. Regulation 74 of the principal Regulations is amended in subregulation (1) by inserting after the word "districts" the words "and polling stations".

Amendment
of reg. 74
of the
principal
Regulations

Made this 26th day of May, 1993.

FILE NO. 11 05 6)

H. KAMUZU BANDA
Life President