

THE INFORMATION TECHNOLOGY REGULATIONS, 2021

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GOVERNMENT NOTICE NO. ...

..... REGULATIONS
(CAP.)

IN EXERCISE of the powers conferred by Sectionof theAct, I,
GOSPEL KAZAKO, Minister of Information, make the following Regulations—

PART I — PRELIMINARY

- Citation 1. These Regulations may be cited as the Malawi Information Technology Authority Regulations, 2021.
- Interpretation 2. In these Regulations, unless the context otherwise requires—
- “Act” means the Malawi Information Technology Act, 2021;
- “authenticated person” means a person authenticated in accordance with these Regulations and who holds a certificate of authentication;
- “authentication” means a formal certification procedure by which the Authority assesses, verifies and attests that information technology training offered by a person meets the requirements and standards prescribed under these Regulations and includes the authentication of information technology training institutions;
- “Authority” means the Malawi Information Technology Authority established by the Act;
- “certified person” means a person certified to provide information technology products or services in accordance with these Regulations;
- “certification” means a formal procedure by which the Authority assesses, verifies and attests that a person providing information technology products or services meets the requirements and standards prescribed under these Regulations;

“Director General” means the chief executive of the Authority appointed in accordance with the Act;

“e-Government” means the use of information and communication technologies to deliver public services in a convenient, efficient customer-oriented and cost-effective way;

“government web portal” means a web site or interface that offers a range of resources and services including email, for a search engine and an integration of websites;

“information technology training” means training relating to application, design, development, implementation, support or management of computer-based information systems;

“Information Technology (IT)” means the science of collecting and using information by means of computer systems and refers to computers, ancillary or peripheral equipment such as printers and scanners, software and firmware services including support services, and related resources and includes any equipment or interconnected systems that are used in the acquisition, storage, manipulation or processing, management, movement, control, display, transmission or reception of data or information; but does not include telecommunications.

“information technology product” includes information technology hardware, software and peripherals;

“information technology service” means a service that provides value to a customer provided by a supplier, application solution provider, consultant, service delivery including an internet cafe;

“information technology training institution” means an institution conducting information technology training;

“information security” means the protection of information and information systems from unauthorised access, use, disclosure, disruption, modification or destruction.

“information system” means a system for generating, sending, receiving, storing, displaying or otherwise processing data messages and includes the internet or any other information sharing system;

“interoperability” means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“integrated service delivery” means the provision of government information or services integrated according to function or topic rather than separated according to the boundaries of Authority jurisdiction;

“Minister” the Minister responsible for information technology;

“provide” in relation to information technology products or services means offering for sale to the general public, information technology products or services;

“Public institution” means Government Ministry, Department or Agency;

“public key infrastructure or PKI” means a framework for creating a secure method for exchanging information based on public key cryptography;

“recognised certification body” means a body which the Authority has authorised, in writing, to conduct authentication or certification on its behalf in accordance with these Regulations; and

“website” means a location on the internet and a collection of web pages, images, videos, data which are addressed relative to a common Uniform Resource Location.

PART II—LICENSING OF INFORMATION TECHNOLOGY TRAINING

Licensing
required to
conduct
Information
Technology
Training

3.—(1) A person shall not conduct information technology training unless that person is licensed in accordance with the Act and these Regulations.

(2) A person who conducts information technology training in contravention of sub regulation (1) shall on the determination of the Authority pay an administrative fine and have their service suspended until regularization of same.

Authority to
License
information
technology
training

4.—(1) The Authority shall, in consultation with the ministry responsible for education, National Council for Higher Education and any other bodies

responsible for information technology training set up a licensing unit for information technology training.

(2) For the purposes of performing its mandate under sub regulation (1), the Authority may retain the services of a recognized body to licence information technology training.

Authority to consult Ministry responsible for education and other entities

5. The Authority shall, in consultation with the Ministry responsible for education, National Council for Higher Education and any other bodies responsible for information technology training, provide further guidelines on information technology training under these Regulations.

Designation of registrar for information technology training

6.—(1) The Director General shall be the registrar of information technology training for the purposes of the Act and these Regulations.

(2) The registrar shall be responsible for—

- (a) receiving and processing applications for license;
- (b) registering licensed information technology training institutions or providers; and
- (c) implementing the decisions of the Authority regarding the licensing of information technology training.

(3) The registrar shall establish and maintain a register of licensed persons.

Application for licensing of information technology training

7.—(1) A person who intends to conduct information technology training shall apply to the registrar for a license in Form 1A in Schedule 1.

(2) An application under sub regulation (1) shall be accompanied with the fee prescribed in Schedule 3.

(3) Without prejudice to sub regulation (1), an application for a license for information technology training shall precisely state the purpose for which the license is sought.

(4) The Authority shall license information technology training using the classification criteria specified in Schedule 2.

(5) For the avoidance of doubt, a pre-primary, primary and general secondary institution shall not be required to pay fees for authentication under these Regulations.

Licensing of information technology training institutions

8.—(1) The Authority shall, before licensing an institution conducting information technology training under regulation 7, ascertain that the institution meets the requirements specified in Schedule 2.

(2) Without limiting the general effect of sub regulation (1), an institution shall—

- (a) be registered in accordance with the law, where applicable;
- (b) abide by the standards for the provision of information technology training;
- (c) demonstrate financial viability, where necessary;
- (d) put in place and maintain a sound quality management system in relation to information technology training;
- (e) have in place policies and procedures to govern the information training institution;
- (f) employ competent and qualified staff to provide, implement and deliver information technology training;
- (g) provide appropriate infrastructure and equipment required for information technology training; and
- (h) meet any other requirements of the Authority.

Assessment of Application

9.—(1) The Authority shall assess every application to ensure that the applicant meets the criteria for licensing including inspection of the premises of the applicant to evaluate whether the applicant satisfies the requirements for conducting information technology training in accordance with the Act and these Regulations.

(2) Where the Authority retains the services of a recognised body under regulation 4(2) the body shall assess the application for licensing and make a recommendations to the Authority.

(3) The Authority may, where the information provided by the applicant is insufficient to enable the Authority make a decision on the application, require the applicant to provide further information for the purposes of this regulation to enable the Authority make a decision.

(4) For the avoidance of doubt, the Authority shall assess every application to ascertain that the application—

- (a) complies with applicable administrative, legal and technical requirements issued by the Authority;
- (b) demonstrates experience of the applicant in specific information technology training;

(c) complies with applicable standards.

Grant or
Refusal of
License

10.—(1) The Authority shall within forty-five days after the receipt grant or refuse of an application for a license.

(2) Where the Authority grants the application, the Authority shall issue the license in Form 2A in Schedule 1.

(3) A License shall be valid for two years from the date of issue or such other period the Authority may prescribe subject to the Act and these Regulations.

(4) Where the Authority rejects or refuses an application, the Authority shall give reasons and the registrar shall notify the applicant of the rejection or refusal within thirty days after the decision.

Licence to be
displayed in
conspicuous
place

11. A person that has been granted a license shall display it in a conspicuous place on the premises of the person.

Suspension or
Revocation of
a Certificate

12.—(1) The Authority may suspend or revoke the license where the Authority is satisfied that—

- (a) the person is operating in contravention of the Act or these Regulations;
- (b) the capacity of the person has diminished in a manner that affects the information technology training.

(2) Before suspending or revoking a license under these Regulations, the Authority shall give notice to the person to show cause, within thirty days, why the license should not be suspended or revoked.

(3) Where a license is suspended or revoked, the Authority shall give the reasons for the suspension or revocation.

(4) Where a license—

- (a) is revoked the registrar shall remove that person from the register;
- (b) is suspended the registrar make an entry in the register to indicate that the license has been suspended.

Re-instatement
of License

13.—(1) The Authority may reinstate the license of a person whose license has been suspended where the Authority is satisfied that the reason for the suspension has been addressed and the fee prescribed in Schedule 3 paid.

(2) A person whose license is revoked may make a new application which shall be assessed in accordance with regulation 9.

Surrender of License

14.—(1) A person conducting information technology training may surrender its license to the Authority.

(2) Where a person surrenders its license, the registrar shall remove that person from the register.

(3) A person who surrenders its license under sub regulation (1) shall immediately cease to provide information technology training subject to the directions of the Authority.

Renewal of License

15.—(1) The holder of a license shall apply for renewal of the license three months before its expiry.

(2) The license shall only be renewed where the Authority is satisfied that the holder of the license meets the requirements set down in the Act and the Regulations.

(3) An application for renewal shall be accompanied by the fee prescribed in Schedule 3.

PART III — LICENSING OF PROVIDERS OF INFORMATION TECHNOLOGY PRODUCTS AND SERVICES

Licensing required to provide Information Technology Products and Services

16.—(1) A person shall not provide information technology products or services unless that person is licensed in accordance with the Act and these Regulations.

(2) A person who provides information technology products or services in contravention of sub regulation (1) commits an offence and is liable, on conviction—

(a) to a penalty of a fine not exceeding One Hundred and Ten Thousand Malawian Kwacha or a term of imprisonment not exceeding three months or to both;

(b) in the case of a continuing offence, to an additional fine not exceeding Ten Thousand Malawian Kwacha for each day on which the offence continues.

Authority to License Providers of Information Technology Products and Services

17.—(1) The Authority shall be responsible for the licensing of providers of information technology products or services.

(2) For the purposes of performing its mandate under sub regulation (1), the Authority may retain the services of a recognised certification body to certify providers of information technology products or services.

Designation
of Registrar
of Providers
of
Information
Technology
Products and
Service

18.—(1) The Director General shall be the registrar of providers of information technology products and services for the purposes of the Act and these Regulations.

(2) The registrar shall be responsible for—

- (a) receiving and processing applications for certification of providers of information technology products or services;
- (b) registering certified providers of information technology products or services; and
- (c) implementing the decisions of the Authority regarding the certification of information technology products and services.

(3) The registrar shall establish and maintain a register of certified persons.

Application
for
Certification

19.—(1) A person who intends to provide information technology products or services shall apply to the registrar for certification in Form 1B in Schedule 1.

(2) The application under sub regulation (1) shall be accompanied with the fee prescribed in Schedule 3.

(3) Without prejudice to sub regulation (1), an application for certification shall state precisely the nature of products or services for which the certification is sought.

(4) The Authority shall certify providers of information technology products or services using the classification criteria specified in Schedule 2.

Other
Requirements
for
Certification

20.—(1) The Authority shall before certifying a person intending to provide information technology products or services ascertain that the person meets the requirements specified in Schedule 2.

(2) Without limiting the general effect of sub regulation (1), a person intending to provide information technology products or services shall—

- (a) in the case of a legal person, be registered in accordance with the law;

- (b) abide by the standards for the provision of information technology products or services;
- (c) demonstrate financial viability, where necessary;
- (d) put in place and maintain a sound quality management system;
- (e) have in place policies and procedures to govern the provision of information technology products or services;
- (f) where applicable, employ competent and qualified staff to provide information technology products or services; and
- (g) provide appropriate infrastructure and equipment required to provide information technology products or services.

Assessment
of
Application

21.—(1) The Authority shall assess every application for certification to ensure that the applicant satisfies the requirements for the provision of information technology products or services in accordance with the Act and these Regulations.

(2) Where the Authority retains the services of a recognised certification body under regulation 17(2), the certification body shall assess the application for certification and make recommendations to the Authority .

(3) The Authority may, where the information provided by the applicant is insufficient to enable the Authority make a decision on the application, require the applicant to provide further information for the purposes of this regulation to enable the Authority make a decision.

(4) For the avoidance of doubt, the Authority shall assess every application to ascertain that the application—

- (a) complies with applicable administrative, legal and technical requirements issued by the Authority ;
- (b) demonstrates experience of the applicant in the provision of information technology products or services; and
- (c) complies with applicable standards relating to the provision of information technology products or services.

Grant or
Refusal of
Certification

22.—(1) The Authority shall within forty-five days after the receipt of an application grant or refuse certification.

(2) Where the Authority certifies an applicant, the Authority shall issue the applicant a certificate in Form 2B in Schedule 1 after payment of the fee prescribed in Schedule 3.

(3) A certificate shall be valid for three years from the date of issue or such other period the Authority may prescribe subject to the Act and these Regulations.

(4) Where the Authority rejects or refuses an application for certification, the Authority shall give reasons and the registrar shall notify the applicant of the rejection or refusal within thirty days after the decision.

Certificate to be displayed in Conspicuous Place

23. A person that has been granted a certificate shall display the certificate in a conspicuous place in the premises of the person.

Suspension or Revocation of a License

24.—(1) The Authority may suspend or revoke the certification to provide information technology products or services where the Authority is satisfied that—

- (a) the provider is operating in contravention of the Act or these Regulations; or
- (b) the capacity of the provider to provide information technology products or services has diminished in a manner that affects the certification.

(2) Before suspending or revoking certification under these Regulations, the Authority shall give notice, in writing, to the provider to show cause, within thirty days, why the certification should not be suspended or revoked.

(3) Where certification is suspended or revoked, the Authority shall give the reasons for the suspension or revocation.

(4) Where a provider's certification—

- (a) is revoked, the registrar shall remove that provider from the register of certified persons;
- (b) is suspended the registrar make an entry in the register to indicate that the certification of the provider has been suspended.

(5) Where a provider surrenders the certification, the registrar shall remove that person from the register.

Re-instatement of Certification

25.—(1) The Authority may reinstate the certification of a person providing information technology products or services where it is satisfied that the person has addressed the matters that are the reason for the suspension and after payment of the fee prescribed in Schedule 3.

(2) A person whose certification is revoked may make a new application which shall be assessed in accordance with regulation 21.

Surrender of Certificate

26.—(1) A certified person may surrender the license to the Authority .

(2) A certified person who surrenders a license under sub regulation (1) shall immediately cease to provide information technology products or services subject to the directions of the Authority .

Renewal of Certification

27.—(1) A certified person shall apply for renewal of the certification six months before the expiry of the certification.

(2) The certification shall only be renewed where the Authority is satisfied that the holder of the license meets the requirements for certification.

(3) An application for renewal shall be accompanied by the fee prescribed in Schedule 3.

PART IV — E-GOVERNMENT

Electronic Government Systems

28. The Authority shall promote the establishment and maintenance of interoperable information systems within public institutions in accordance with the Act and these Regulations.

National Data Centre

29.—(1) For the purposes of promoting e-government services, the Authority shall establish a National Data Centre.

(2) The national data centre shall provide the following services—

- (a) hosting services;
- (b) data centre services; and
- (c) disaster recovery services.

(2) Subject to sub regulation (4), the Authority shall link and integrate the National Data Centre to a data centre established by a public body.

(3) The National Data Centre shall be linked or integrated with other data centres established by a private or public body.

(4) The access to the National Data Centre shall be in accordance with user rights and access levels prescribed by the Authority.

(5) The access to a data centre of a public or private body that is linked to or integrated to the National Data Centre shall be in accordance with user rights and access levels prescribed by that public or private body.

Public
institution's
website

30.—(1) In order to facilitate the use of e-government services, every public institution shall establish and maintain a website.

(2) A website of a public institution shall be interactive.

(3) Where a public institution does not establish a website within six months after the commencement of these Regulations, the Authority shall establish a website for the public body.

(4) The Authority shall charge the public institution for establishing the website under sub regulation (3).

(5) For the purposes of sub regulation (4), the information required under regulation 7 in respect of the website of that public institution shall be provided by the public body.

(6) A public institution shall regularly update the information on its website.

(7) The Authority shall ensure that every public institution complies with this regulation.

Information
to be provided
on Public
institution
Website

31.—(1) Every website of a public institution shall state—

- (a) the name of the public body;
- (b) the vision, mission, mandate and the goal of the public body;
- (c) the national coat of arms and the logo of the public body;
- (d) the services rendered by the public body;
- (e) the laws, policies, codes, standards, guidelines relating to the public body;
- (f) the contact details of the public institution including a site map to enable location of the public body;
- (g) the information about the organisational structure of the public body; and
- (h) any other guidelines that will be provided by the Authority .

(2) The domain name of the public institution shall end with the nomenclature **gov.mw**.

(3) A public institution website shall have search capability.

(4) A website shall be updated regularly.

Government
Web Portal

32.—(1) The Authority shall establish and maintain a government web portal.

(2) The government web portal shall contain all information relating to government services.

(3) For the purposes of sub regulation (2), the government web portal shall be linked to the websites of bodies providing public services.

(4) The government web portal shall—

(a) be interactive; and

(b) include services relating to citizens, businesses and government.

IT
Policies

33.—(1) Every public institution shall develop an information technology policy in accordance with the directions of the Authority.

(2) The public institution shall provide tools for the enforcement of the internet policy.

Public
institutions
to Use E-
Government
Infrastructure

34.—(1) All public institutions shall use the designated national data transmission backbone and electronic government infrastructure as the primary vehicle for all Government data and internet.

(2) For the purposes of sub regulation (1) the Authority shall connect all public institutions to the designated national data transmission backbone infrastructure.

(3) A public institution connected to the designated national data transmission backbone infrastructure shall pay for the connection and the services rendered at the rates determined by the Authority in consultation with the national steering committee responsible for information technology.

(4) In determining the rates under sub regulation (3), the Authority shall take into consideration the market rates.

35.—(1) All public institutions shall prepare and submit to the Authority an Information Technology Project Management Plan when implementing an information technology project which includes the—

- (a) Project Name & Location;
- (b) Project Initiation;
- (c) Project Planning;
- (d) Project Execution;
- (e) Key Project Contacts;
- (f) Project Monitoring and Controls; and
- (g) Project Closure.

(2) The project management strategy must also—

- (a) set objectives for the long run;
- (b) evaluate national priorities;
- (c) generate alternative strategies;
- (d) evaluate alternative strategies by comparison;
- (e) monitor strategies implementation and results; and
- (f) obtain a high level of commitment among the stakeholders during each step of this process.

36.—(1) The Authority shall establish the public key infrastructure (PKI) for e-government.

(2) The e-government PKI shall be established in accordance with the Electronic Transactions & Cyber Security Act, 2016.

37. Every public institution shall, in accordance with the information security standards issued by the Authority —

- (a) develop and enforce necessary security measures to safeguard information collected or used for e-government services, from unauthorised disclosure; and
- (b) take all reasonable steps to ensure that every officer of the public institution concerned with delivering services or collecting posting or disseminating information or services is aware of and complies with the security measures regarding the management and protection of information.

38.—(1) Public and private bodies may share information in the provision of e-government services.

(2) The access to information shall be accordance with the user rights and access levels prescribed by that public or private body.

Use of
Personal
Information

39. Every public institution shall ensure that personal data is—

- (a) kept and used only for specified and lawful purposes for which the data has been collected and processed; and
- (b) not kept for longer than is necessary for the purposes for which the data has been collected and processed.

Non-
disclosure of
Information
Provided to
a Public
Body

40.—(1) Except in accordance with law, an officer shall of a public institution not disclose information provided to the public institution for the purpose or during the course of delivery of e-government services, without the consent of the person or entity to which the information relates.

(2) Except in accordance with law, an officer of a public institution who discloses information provided to the public body, without the consent of the person to whom the information relates commits an offence and is liable on conviction to—

- (a) a fine not exceeding One Hundred and Ten Thousand Malawian Kwacha or imprisonment not exceeding three months or to both;
- (b) in the case of a continuing offence, an additional fine not exceeding Ten Thousand Malawian Kwacha for each day on which the offence continues.

PART V — GENERAL PROVISIONS

Submission
of
Information

41. Information or a document required to be submitted to the Authority may be submitted physically or electronically—

- (a) by hand to the head offices of the Authority;
- (b) by post to the head offices of the Authority;
- (c) by electronic mail to the address of the Authority ; or
- (d) in any other manner or at any address or telephone number specified by the Authority.

Power to
Inspect

42.—(1) The Authority may in the manner specified in the Act and these Regulations, inspect and monitor authenticated services to ensure compliance with the Act and these Regulations.

(2) For purposes of sub regulation (1), licensed services shall be inspected on a preliminary basis not less than six months after the grant of the license.

(3) A full inspection shall be carried out not less than one year after the grant of the licence, and thereafter the Authority shall inspect the licensee every year during the validity of the license.

(4) Notwithstanding sub regulations (1) and (2), the Authority may conduct impromptu inspections of licensed services.

(5) The Authority shall prepare a report of any inspection of every licensed services.

(6) Where the report indicates that the service is in breach of the terms and conditions on which the licence was granted or is in breach of the provisions of the Act or these Regulations, the Authority may require the licensee to fulfill the terms and conditions of the r licence or adhere to the provisions of the Act or these Regulations within a period stated by the Authority .

(7) Where an authenticated person does not comply with sub regulation (6), the Authority may suspend or revoke the license.

(8) Every authenticated person shall pay an annual inspection fee prescribed in Schedule 3.

Products not
in Conformity
with
Standards

43. Where the Authority refuses an application because the information technology products do not conform to approved standards for information technology products, the Authority shall take appropriate action including seizing and destroying the products at the cost of the applicant.

Fees

44.—(1) The Authority shall determine the fees for provision of its services under the Act and this regulations in consultation with the Ministry responsible for finance.

(2) The fees as determined shall be gazetted and published on the website of the Authority.

(3) The fees so determined may be reviewed from time to time and any such review shall be gazette and published on the website of the Authority.

(4) The fees determined shall be paid in respect of the services or activities to which they relate.

(5) All fees shall be paid by way of electronic transfer or direct deposit into the Authority's bank account.

(6) The prescribed fees shall be paid on or before the day an application is submitted to the Authority.

(4) All the fees prescribed under this section are not refundable.

Internal
Complaints
Procedures
of Providers

45.—(1) A person licensed under the Act and these Regulations shall establish clear and simple internal procedures for the resolution of complaints by the service provider.

(2) A complaint submitted must be dealt with within fourteen days after receipt of the complaint.

(3) A service provider shall notify any person who—

- (a) submits a complaint to the provider that the person may submit a complaint to the Authority; and
- (b) is not satisfied with the way a certification service provider, repository provider or a date and time service provider has dealt with a complaint, that they may submit a complaint to the Authority.

Records of
Complaints

46. A licensed provider shall maintain records of all internal complaints and shall make a report on the complaints every six months.

Complaints
to Agency

47.—(1) Any person may submit a complaint to the Authority against a service provider.

(2) A complaint shall be in writing and shall contain—

- (a) the name and contact details of the complainant and the name and contact details of the person submitting the complaint, if different from the complainant;
- (b) the name and address of the service provider against whom the complaint is made;
- (c) a concise statement of the complaint or allegation of non-compliance with the Act, these Regulations, or a licence;

- (d) a complete and accurate statement of the facts illustrating the complaint;
- (e) where applicable, a clear and concise statement of the specific relief or remedy sought; and
- (f) any other relevant information.

Resolution of
Complaints
by Agency

48.—(1) Upon receiving a complaint, the Authority , shall unless the complaint is frivolous, issue a reference number to the complainant and provide a copy of the complaint to the service provider against whom the complaint is made.

(2) The service provider against whom the complaint is made shall, within five days respond in writing to the Authority.

(3) The Authority may request additional information from the complainant or the respondent.

(4) The Authority shall within thirty days after receipt of the response of the service provider—

- (a) informally mediate the dispute between the parties;
- (b) further investigate the complaint;
- (c) conduct a formal hearing of both parties to the complaint;
- (d) dismiss the complaint, wholly or partly;
- (e) grant the relief sought in the complaint, either wholly or partly;
- (f) order the service provider to take appropriate action to remedy or deal with the complaint; or
- (g) take any other action or decision, as may be appropriate in the circumstances.

Complaints
between
service
providers

49. Where a complaint is made by a service provider against another service provider, and the Authority considers it necessary or appropriate, the Authority may convene a meeting of the concerned service providers to resolve the complaint.

Reviews
and Appeals

50.—(1) A person who is dissatisfied with the decision of the Authority under these Regulations may apply to the Authority for the review of the decision within thirty days of receipt of the decision.

(2) The application shall be in Form 1 in Schedule 4 and shall be accompanied by the prescribed fee.

(3) The application for review shall be in writing and include the reasons for the review in a precise and concise manner.

(4) The Authority shall consider the review and confirm or vary the earlier decision or make such other decisions as may be necessary within thirty days of receipt of the request for review.

(5) The Authority shall give reasons for its decision.

(6) A person dissatisfied with a decision of the Authority under these Regulations may, in Form 4 in Schedule 1, appeal to the Minister within fifteen days of receipt of the decision.

(7) The appeal shall state the reasons for the appeal in a precise and concise manner.

Penalty for
Breach of
Regulations

51. A person who contravenes these Regulations commits an offence and is liable on conviction—

- (a) to a penalty of a fine not exceeding One Hundred and Ten Thousand Malawian Kwacha or imprisonment not exceeding three months imprisonment or both;
- (b) in the case of a continuing offence, to an additional fine not exceeding Ten Thousand Malawian Kwacha for each day on which the offence continues.

PART VI—TRANSITIONAL PROVISIONS

Persons
conducting
information
technology
training
prior to
coming into
force of
these
Regulations

52.—(1) A person conducting information technology training, products or services immediately before the coming into force of these Regulations shall apply for a license in accordance with the Act and these Regulations.

(2) The application under sub regulation (1) shall be made within ninety working days after the coming into force of these Regulations.

(3) For the avoidance of doubt, the provisions in these Regulations relating to application for a license shall, with the necessary modifications, apply to an application made under this regulation.

SCHEDULE 1
(FORMS & LICENSES)

(reg. 7(1))

FORM 1A

Application for License as provider of information technology training

Application for License as provider of information technology services and products

- 1.** NAME OF APPLICANT (including a trading name, if different from registered name)

- 2.** ADDRESS

(a) Registered physical address

(b) Postal address

(c) Fax number: _____

(c) E-mail address: _____

(d) Website address: _____

(e) Telephone No.s (Fixed & Mobile):

- 3.** LOCATION

State the premises of the of information technology training institution (*if different from registered physical address*)

4. INFRASTRUCTURE TO SUPPORT THE DELIVERY OF INFORMATION TECHNOLOGY TRAINING, PRODUCT OR SERVICES (as applicable)

5. EXPERTISE/ STAFF AND QUALIFICATIONS

(a) How many academic/training staff does the institution have or propose to have?

(b) Please give the name of each of the proposed academic/training staff employed by the applicant (*attach a separate sheet*). Please indicate the academic qualifications of each member of staff.

(c) Indicate the qualifications in information technology of the staff as follows—

(i) Ph. D. holders

(ii) Masters

(iii) Bachelors

(iv) Diploma

(v) Certificate

(vi) Other Professional Qualifications:

6. REQUIREMENTS FOR SPECIFIC INFORMATION TECHNOLOGY TRAINING, PRODUCT OR SERVICES (*as applicable and specified by the Authority*) (see **whether it satisfies the matter of scope of license)**

7. FINANCES AND MANAGEMENT

(a) What is the annual budget or proposed budget of the information technology *training, product or services*?

(b) How much of the budget is given to-

(i) Infrastructure development

(ii) Research and development

(iii) Computer hardware and software

(iv) Human resource development

8. DETAILS OF PREVIOUS LICENSES, IF ANY (*include details of certification standard, certification body, date of grant of certificate and period for which the certificate was granted*)

9. DETAILS OF APPLICANT'S EXPERIENCE IN CONDUCTING INFORMATION TECHNOLOGY TRAINING, PRODUCT OR SERVICES.

.....

.....

.....

.....

10. DETAILS OF TAX REGISTRATION AND CLEARANCE

.....

.....

.....

11. SIGNATURES OF THE OFFICERS OF THE INFORMATION TECHNOLOGY TRAINING, PRODUCTS OR SERVICES.

(i) NAME _____ SIGNATURE _____

(ii) NAME _____ SIGNATURE _____

(iii) NAME _____ SIGNATURE _____

DECLARATION

We swear that all information submitted in this form is true to the best of our knowledge.

(Fill all items on this form and append attachments wherever necessary. Print or use capital letters.)

FORM IB

(reg. 10(2))

LICENSE

.....(*insert name*) is
licensed to conduct information technology training under the Act and the Regulations in
accordance with the specified guidelines.

Dated this day of 20...

.....
Director General
Malawi Information Technology Authority (MITA)

APPLICATION FOR EXEMPTION FROM LICENCE

To the Authority

1. Particulars of applicant:

(a) Name: (b) Physical address:.....
.....

(c) Postal address:

..... (d) Telephone (fixed line): (e)

Mobile phone:..... (f) Fax:

(g) E-mail address:.....

2. Legal status of applicant: Indicate legal status of applicant

(Attach certificate of incorporation, memorandum and articles of association where applicable).

3. Particulars of directors:

Name Address Nationality Country of usual residence

(a)

(b)

(c)

4. Describe the nature of the organization.....
.....
.....

5. Reasons why the organization is applying for the exemption
.....
.....
.....

6. Describe how the services the subject of the application will be provided to the members of the organisation.....
.....
.....
.....

7. State the policies for security, privacy of information and disaster recovery
.....
.....
.....

8. Authorised signature and seal of applicant

Name *Signature* *SEAL*
Dated this *day of* , 20

APPLICATION FOR CONSENT TO TRANSFER LICENCE

To the Controller

*I(name) of
..... (address)
holder of licence No.....dated..... apply for consent to
transfer the licence to of(address of
proposed transferee)*

Dated thisday of..... 20.....

*.....
Applicant*

APPLICATION FOR RENEWAL OF LICENCE

1. Particulars of applicant

(a) Name of applicant..... (b)Physical address.....
(c) licence No: (d) expiry date of licence:

2. Please complete the following—(Answer “Yes” or “No” in space provided. If “Yes” attach annexure giving all relevant particulars.)

(a) Since the last application—

(i) Has there been a change in the shareholders of the applicant?

(ii) Has there been a change in the applicant’s directors, secretary, senior management personnel or compliance auditor?

(iii) Has the applicant or any of its directors or its secretary been convicted of any felony or an offence involving fraud, false statement or deception? If “Yes’: using an annexure, give full details, including whether judgment is unsatisfied.)...
.....

(iv) Has the applicant undertaken to conduct any material new business activity under the Act other than what is stated in the current licence? If so, state the nature of the activity.....

(b) Please furnish details of any other event which has occurred which is likely to have a significant effect on the applicant’s business during the currency of the licence if granted (including any legal claim against the applicant.)

3. Attach a certification service statement and a report of an auditor certifying compliance of applicant with Act and Regulations

4. I/We* declare that all information given in this application and in the attached annexure (if any) is true and correct.

Date:.....

Signature

(Name of Applicant’s Director/Secretary*)

*Delete whichever is inapplicable.

NOTICE

To..... (name of licensee)
of
.....(address).

Take notice that the Authority intends to suspend* or revoke* your licence No.
.....datedon the following grounds-
.....
.....

You are required to show cause why your licence should not be suspended* or revoked
within thirty days from the date of receipt of this notice.

Dated this.....day of.....20.....

.....
Director General
Malawi Information Technology Authority (MITA)

NOTICE OF SURRENDER OF LICENCE

To:

(1)

.....
(Name and address of person providing the information).

TAKE NOTICE that I intend to surrender the licence due to the following.....

.....
.....
.....
..... Dated this
..... day of....., 20.....

Schedule 2A**CRITERIA FOR LICENSING OF PROVIDERS OF INFORMATION
TECHNOLOGY TRAINING****PART I — GENERAL REQUIREMENTS FOR
INFORMATION TECHNOLOGY TRAINING PROVIDERS**

1. A person seeking authentication to conduct information technology training shall fulfill the criteria specified in this Schedule.
2. Without prejudice to paragraph (1), a person seeking authentication shall—
 - (a) be a legally registered business in Malawi or outside Malawi;
 - (b) have sound organisational, financial and planning systems to ensure stability in the provision of information technology training;
 - (c) have facilities and equipment to ensure conducive to conduct the information technology training;
 - (d) have satisfactory past work performance, track record of credibility, and experience in a given industrial activity for which the authentication is sought;
 - (e) have experienced information technology professionals required to conduct the information technology training for which the authentication is sought;
 - (f) identify the site to be covered under the scope of proposed authentication which shall generally be a location at which the person carries out operations;
 - (g) clearly specify the scope of information technology training to be included under the authentication sought;
 - (h) abide by the standards for the provision of information technology training.

PART II — CATEGORIES OF INFORMATION TECHNOLOGY TRAINING

3. The classification criteria set out in this Schedule applies to the following information technology training—
 - (a) Primary
 - (b) General Secondary Education
 - (c) Technical and Vocational
 - (d) Tertiary Institutions
 - (e) Universities
 - (f) Professional Training

4. The scope of training for the categories of information technology training specified in paragraph 1 shall accord with the categories and subcategories of the Skills Framework for the Information Age or SFIA classification set out below.

Category	Sub-Category	Code
Strategy and Architecture	Information Strategy	SAIS
	Advice and Guidance	SAAG
	Business Strategy and Planning	SABP
	Technical Strategy and Planning	SATP
Business Change	Business Change Implementation	BCCI
	Business Change Management	BCCM
	Relationship Management	BCRM
	Skills Management	BCSM
Solution Development and Implementation	Systems Development	SDSD
	Human Factors	SDHF
	Installation and Integration	SDII
Service Management	Service Strategy	SMSS
	Service Design	SMSD
	Service Transition	SMST
	Service Operation	SMSO
Procurement and Management Support	Supply Management	PMSM
	Quality and Conformance	PMQC
Client interface	Sales and Marketing	CISM
	Client Support	CICS

Schedule 2B

CLASSIFICATION CRITERIA FOR LICENSING OF PROVIDERS OF INFORMATION TECHNOLOGY PRODUCTS AND SERVICES

PART I — GENERAL REQUIREMENTS FOR INFORMATION TECHNOLOGY PRODUCT OR SERVICE PROVIDERS

1. A person seeking certification to provide information technology products or services shall fulfill the criteria specified in this Schedule.
2. Without prejudice to paragraph (1), a person seeking a license shall—
 - (a) be a legally registered business in Malawi or outside Malawi;
 - (b) have sound organisational, financial and planning systems to ensure stability in the provision of information technology services or products;
 - (c) have facilities and equipment to ensure conducive for the provision of information technology products or services;
 - (d) have satisfactory past work performance, track record of credibility, and experience in a given industrial activity for which the certification is sought;
 - (e) have experienced information technology professionals required for the provision of information technology products or services for which the certification is sought;
 - (f) identify the site to be covered under the scope of proposed certification which shall generally be a location at which the person carries out operations;
 - (g) clearly specify the scope of information technology products or services to be included under the certification sought;
 - (h) complies with applicable standards relating to the provision of information technology products or services.

PART II – CATEGORIES OF PROVIDERS OF INFORMATION TECHNOLOGY PRODUCTS AND SERVICES

1. The classification criteria set out in this Schedule applies to providers of information technology products or services.
2. The categories of providers of information technology products or services shall accord with the Standard Industrial Classification or ISIC for all information and communications technology activities set out below.

<i>Division</i>	<i>Group</i>	<i>Class</i>	<i>Description</i>
Repair and installation of machinery and equipment			
	331	3312	Repair and maintenance of photocopy machines
			Repair of calculators, electronic or not
			Repair of typewriters

33	332	3320	Installation of other industrial equipment, such as;
			Communications equipment
			Mainframe and similar computers
Water supply; sewerage, waste management and remediation activities			
38	381	3811	Collection of non-hazardous waste (e-Waste)
		3812	Collection of hazardous waste (e-Waste)
	382	3821	Treatment and disposal of non-hazardous waste (e-Waste)
		3822	Treatment and disposal of hazardous waste (e-Waste)
	383	3830	Materials recovery (e-Waste Recycling)
Construction			
43	432	4321	Electrical installation – for IT Installations (e.g. Data Centers, Server Rooms, etc.)
		4322	Plumbing, heat and air -conditioning installation – for IT Installations (e.g. Data Centers, Server Rooms, etc.)
		4329	Other construction installation – for IT Installations (e.g. Data Centers, Server Rooms, etc.)
	439	4390	Other specialized construction activities – for IT Installations (e.g. Data Centers, Server Rooms, etc.)

Wholesale			
46	461	4610	Wholesale on a fee or contract basis
	465	4651	Wholesale of computers, computer peripheral equipment and software
		4652	Wholesale of electronic and telecommunications equipment and parts
Retail			
47	474	4741	Retail sale of computers, peripheral units, software and telecommunications equipment in specialized stores
	477	4774	Retail sale of second-hand goods (Computer Equipment)
Publishing			
58	582	5820	Software publishing
Telecommunications			
61	611	6110	Wired telecommunications activities (Structured Network Cabling)
	612	6120	Wireless telecommunications activities (Structured Network Cabling)
Computer programming, consultancy and related activities			
62		6201	Computer programming activities
		6202	Computer consultancy and computer facilities management activities
		6209	Other information technology and computer service activities
Information Services			
63	631	6311	Data processing, hosting and related activities
		6312	Web Portals
Professional, scientific and technical activities			
71	712	7120	Technical testing and analysis
Other professional, scientific and technical activities			
74	741	7490	Other professional, scientific and technical activities not elsewhere classified

Education		
851	8510	Pre-primary and primary education
852	8521	General secondary education
	8522	Technical and vocational secondary education
853	8530	Higher education
855	8550	Educational support activities
854	8542	Cultural education
Arts, entertainment and recreation		
900	9000	Creative, arts and entertainment activities
932	9329	Other amusement and recreation activities
Repair of computers and personal and household goods		
951	9511	Repair of computers and peripheral equipment

SCHEDULE 3

(reg. 81(2))

FORM 1

APPEAL

..... (insert name)
 being dissatisfied with the decision of the Authority made on the day of
 20..... in respect of
 (attach copy of the decision) hereby appeal to the Minister against the decision
 of the Authority .

The reasons for appeal are as follows:

- (1)
- (2)
- (3)
- (4)
- (5)

Dated this day of20.....

.....
 Name of Applicant

.....
 Signature of Applicant

FORM 2

APPLICATION FOR REVIEW

Regulation 17(3)

THE MALAWI INFORMATION TECHNOLOGY
ACT, 2021

TO: The Malawi Information Technology Authority (MITA)

APPLICATION FOR REVIEW

I/We..... *(insert name)*
being dissatisfied with the decision of the Authority made on theday of
..... 20..... in respect of(*attach
copy of the decision*) hereby apply to the Authority to review the decision.

The reasons for application for review are as follows:

- (1)
- (2)
- (3)
- (4)
- (5)

Dated this day of20...

.....
Name of Applicant

.....
Signature of Applicant

Made this day of , 2021.

G. KAZAKO
Minister of Information

(FILE REF. NO.)

