

NATIONAL CONSTRUCTION INDUSTRY  
(CAP. 53:05)

NATIONAL CONSTRUCTION INDUSTRY (LEVY) ORDER  
*under s. 15*

G.N. 1/2013  
29/2014  
51/2023

1. This Order may be cited as the National Construction Industry (Levy) Order. Citation
2. Every consultant and contractor shall pay to the Council, or allow to be deducted by a client for remittance to the Council, a levy of one per cent of the total consultancy fees or the certified sum on each certificate, respectively. Imposition of a levy on consultants and contractors  
G.N.51/2023
- 2A. Where a client engages a contractor on a labor-only contract, the client shall pay a one per cent levy based on the cost of construction materials procured and the cost of plant and equipment used for the project. Levy imposed on client  
G.N. 51/2023
- 2B. A levy deducted or paid under paragraph 2 shall be remitted or paid to the Council, as the case may be, within thirty days of the deduction or receipt of payment of the consultancy fees or the certified sum on each certificate. Remittance of, or payment of, levy  
G.N. 51/2023
- 2C. Payment of the levy imposed under paragraph 2 shall be a condition precedent for renewal of registration and registration into a higher category of a consultant or contractor. Payment of levy condition precedent for renewal of registration  
G.N. 51/2023
3. Every consultant or contractor who has been contracted by a third party to work on a construction project shall inform the Council of such a project, and file a copy of every invoice or certificate with the Council. Consultant or contractor to inform the Council
4. A consultant or contractor who—
  - (a) fails to pay to the Council, the levy imposed under paragraph 2, or refuses to authorize a client to deduct the levy for remission to the Council; or Failure to pay levy or inform the Council  
G.N. 51/2023
  - (b) fails to inform the Council of a project, or fails to file a copy of an invoice or certificate with the Council as prescribed under paragraph 3, commits a disciplinary offence and shall be liable to disciplinary action by the Council.
5. Every client who procures the services of persons engaged in the construction industry as defined in section 2 of the Act shall withhold and remit to the Council such levies as inserted on the works completion certificates within thirty (30) days from the date the deduction was made. Remittance of levy to Council

**[subsidiary]***National Construction Industry (Levy) Order*

Composition  
of consultancy  
fee note and  
certificate

6. Consultancy fee note and work certificate shall comprise the cost of raw materials, labour, overheads, profit and any related expenses incurred in the course of the works.

Valuation of  
projects to be  
done by  
independent  
valuation  
experts  
G.N. 51/2023

7.—(1) A client for a construction project shall, for purposes of determining the value of a project, engage an independent valuation expert to value the project.

(2) An independent valuation expert engaged under subparagraph (1) and paragraph 7A shall be a registered consultant.

Council may  
appoint an  
independent  
valuation  
expert G.N.  
51/2023

7A.—(1) Where—

(a) a contractor and a consultant or a client and a contractor or a consultant are related persons through business or equity shareholding;

(b) there is a dispute on the cost of a project; or

(c) there is no cost given by either a client or a consultant on a project, the Council may appoint an independent valuation expert to value the project.

(2) Where a valuation report is submitted by a contractor, consultant or client to the Council in instances envisaged under subparagraph (1) (a) and (b) and the valuation report submitted by the consultant appointed by the Council determines that the valuation report submitted by the client, contractor or consultant—

(a) undervalued the project, the fees payable to the independent valuation expert appointed by the Council shall be paid by the client, contractor or consultant, as the case may require; or

(b) is accurate or overvalued the project, the fees payable to the independent valuation expert appointed by the Council shall be paid by the Council.”.

Maintenance  
of project  
accounting  
records  
G.N. 29/2014

8. Every client, consultant or contractor shall keep and maintain, at its principal place of business in Malaŵi, up to date records of project accounting information in the prescribed form including—

(a) name of client;

(b) name of project;

(c) location of project;

(d) contractors and consultants involved;

(e) project sum;

(f) pricing mechanism used; and

(g) payment details,

and such information shall be at all reasonable times be available for inspection by an inspector or other officer authorized in that behalf by the Council.

*National Construction Industry (Levy) Order***[subsidiary]**

9. Every client who, after having deducted or withheld such levies in accordance with paragraphs 2 and 5 respectively, fails to pay such levies within thirty days from the date the deduction or withholding was made, shall be liable to pay a penalty in addition to the levy so far deducted or withheld as follows—

Delayed  
payment of  
levy  
G.N. 29/2014

(a) twenty per cent in the first month of the delay; and

(b) there after the commercial bank's rate shall apply for every month not paid.

10. A person who, with intent to evade payment of levy or any penalty due under the Act—

False  
information  
for levy  
evasion  
G.N. 29/2014

(a) makes a false statement to the Council;

(b) fails or omits to give any information; or

(c) gives information or maintains project accounting records which are false in any material particular commits an offence and shall be liable, upon conviction, to a fine of K2,000,000 or of an amount equivalent for the financial gain generated by the offence, if such amount is greater, and to imprisonment for three years.

11. Any amount of levy and of the penalty thereon imposed under this Order shall be recovered by the Council as a civil debt owed to the Council and shall be recoverable by civil proceedings.

Recovery  
of levy and  
penalty  
G.N. 29/2014