

NATIONAL CONSTRUCTION INDUSTRY ACT
(CAP. 53:05)

NATIONAL CONSTRUCTION INDUSTRY (SUBCONTRACTING AND JOINT VENTURES BETWEEN FOREIGN CONTRACTORS AND MALAWIAN CONTRACTORS) REGULATIONS, 2023

IN EXERCISE of the powers conferred by section 29 of the National Construction Industry Act, I, JACOB HARA, Minister of Transport and Public Works, make the following Regulations—

1. These Regulations may be cited as the National Construction Industry (Subcontracting and Joint Ventures between Foreign Contractors and Malawian Contractors) Regulations, 2023. Citation
2. In these Regulations unless the context otherwise requires— Interpretation
“construction” means processes involved in the planning, designing, measurements, procurement, erection, building, production, alteration, maintenance, repairs, renovations or demolition of buildings and engineering infrastructure and includes site preparation, excavation, drilling, the supply of products and materials, the supply of equipment and machinery and the installation and repair of fixtures of a building or engineering infrastructure and supervision of such works;
“foreign contractor” means a foreign firm registered as a contractor under the Act or in the country of origin;
“joint venture” means an agreement between a foreign contractor and a Malawi contractor for purposes of securing or executing a contract; and
“Malawian contractor” means a Malawian firm registered as a contractor under the Act.
- 3.—(1) A foreign contractor intending to execute a construction project in Malaŵi shall— Foreign contractor to enter into joint venture or subcontract
 - (a) enter into a joint venture with a Malawian contractor; or
 - (b) subcontract part of the project works to a Malaŵian contractor.
(2) A foreign contractor may enter into a joint venture with, or subcontract works to, more than one Malawian contractor.
(3) A joint venture and subcontract shall be registered with the Council.
- 4.—(1) A foreign contractor who enters into a joint venture agreement with a Malaŵian contractor shall assign a minimum of thirty per cent of the main works by volume or value to the Malawian contractor. Minimum work proportion to a Malawian contractor
(2) Where a foreign contractor enters into a joint venture with, or subcontracts works to, more than one Malawian contractor, the combined share of the main works by volume or value executed by the Malawian contractors shall not be less than thirty per cent.

Registration
of joint
ventures and
subcontracts

5.—(1) An application for registration of a joint venture or subcontract shall be in the prescribed form and shall be accompanied by a copy of the joint venture or subcontract agreement.

(2) The Council shall, within fourteen days of receipt of an application under subregulation (1), review the application and communicate its decision to the applicant in writing.

(3) Where the Council—

(a) approves the application, the Council shall register the joint venture or subcontract; or

(b) rejects the application, the Council shall give reasons for the rejection.

Joint venture
management
committee

6.—(1) A joint venture agreement shall establish a project management committee comprising representatives of the parties to the agreement.

(2) For purposes of this regulation, a “project management committee” means a committee charged with the responsibility of managing a joint venture construction project.

Administra-
tive penalty

7. Where a foreign contractor contravenes a provision of these Regulations, the Council may—

(a) issue an order to the contractor to comply with the Regulations within a specified period;

(b) suspend the registration of the contractor;

(c) de-register the contractor; or

(d) where the contractor is executing a project, issue a stop order.

Revocation of
G.N. 2/2014

8. The National Construction Industry (Subcontracting and Joint Ventures by Foreign and Malaŵian Construction Firms) Order is hereby revoked.

Made this 24th day of July, 2023.

(FILE NO. ADMIN/2/1)

J. HARA
*Minister of Transport
and Public Works*