

## March 2023 Tropical Cyclone Freddy Response

Version 2, 21 March 2023 (updates are highlighted in yellow)

*This document is intended to provide key information to the Red Cross and Red Crescent Movement network and Operations relating to the regulatory and policy environment applying to Malawi in response to the Tropical Cyclone Freddy that made landfall in March 2023.*

**Note** that a legal mapping was conducted by the IFRC Disaster Law Africa team on Legal Preparedness for [International Disaster Assistance in Malawi: Mapping of Domestic Laws and Policies](#) (2021). Legal facilities available in [Malawi](#) related to international disaster assistance are also set out on the [International Disaster Response Laws Dashboard](#) on the **GO Platform**.

### Institutional and policy framework

- The Disaster Preparedness and Relief Act (the [DPR Act Chapter 33.05](#)) of 1991 provides the legislative framework for DRM in Malawi. The DPR Act is complemented by the [Disaster Risk Management Policy](#) of 2015 that provides strategic objectives for DRM.
- The institutional structure for DRM in Malawi is set out in the DRM Policy, with the main bodies of the DRM system at central and local levels being:
  - The National Disaster Risk Management Committee (NDRMC) – provides policy directions to the Department of Disaster Management Affairs for DRM programmes' implementation;
  - The National Disaster Risk Management Technical Committee (NDRM TC) – serves as a national DRM platform, providing technical support and ensures coordination for mainstreaming DRM;
  - The National Disaster Risk Management Technical Sub-Committees (TSCs) in charge of the coordination of several sectors across the different thematic areas of DRM;
  - The Department of Disaster Management Affairs (DoDMA), is primarily responsible for managing and coordinating the implementation process of the DRM Policy;
- The DoDMA is the focal point for international disaster assistance.
- The Malawi Red Cross Society's auxiliary role is recognized by the [Malawi Red Cross Society Act](#) of 1966 (Chapter 18.09) as per Article 6. **Article 5 paragraph 1** of the Malawi Red Cross Society Act provides for the objects of the National Society, which include but are not limited to:
  - In the **case of catastrophes or public disasters**, to provide the victims thereof with relief;

### State of Emergency & Request of Humanitarian Aid and Assistance

On the [14 March 2023](#), the [President of the Republic of Malawi declared a State of Disaster](#) for areas hit by Tropical Storm Freddy on the 12<sup>th</sup> of March 2023. According to the [World Food Programme flash update on 21<sup>st</sup> March 2023](#), **the death toll is close to 500**, with the majority of deaths occurring in the province of Blantyre, south of Malawi.

## Potential issues & recommendations:

[On March 16, the President of the Republic of Malawi made an official request for international assistance](#) in a press interview. Rescue vehicles such as helicopters have been explicitly mentioned for the transportation of food and equipment. [Moreover, needs assessments led by sectoral cluster helped narrowing down the required items for response operation.](#) [On the 17<sup>th</sup> of March, the United Nations World Food Programme \(WFP\) confirmed in a press release](#) that the true extent of the damage will only be revealed once assessments have been concluded, however the country will need significant support. Since the 18<sup>th</sup> of March, [Malawi, through the DoDMA, received donations from the Republic of Tanzania, further funding \(5.5 million USD\) from the UN Emergency Relief Coordinator through Central Emergency Response Fund \(CERF\).](#) The [United Kingdom](#) also sent search and rescue and medical personnel to support Malawi emergency response team.

[In parallel, the lack of access to safe drinking water and sanitation facilities poses a major risk of waterborne diseases](#) as warned by the Ministry of Health.

Importantly, a National Operations Emergency Centre (NOEC) has been established in Blantyre as a coordination hub for response activities. The NOEC consists of representatives from the Malawian Government, Malawi Red Cross Society and the IFRC. Early reports have indicated that the current situation is extremely volatile and assessment teams have not yet been able to access the most affected areas to conduct adequate assessments due to the high level of water.

**Therefore, we recommend MRCS, with the support of the IFRC Network, to offer technical support to Department of Disaster Management Affairs of Malawi (DoDMA) to identify the level of support it can offer in meeting the list of needs as requested by public authorities and detail clear processes for the acceptance of international disaster assistance, based on IDRL best practices**

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| <b>Special IDRL Facilities for eligible international humanitarian actors</b> | <p>The legal framework in Malawi provides very limited facilities for international assisting actors (which are set out below). There are also no explicit provisions which provide legal facilities related to international disaster assistance for the MRCS in terms of the Malawi Red Cross Society Act.</p> <p>Importantly, Malawi is a party to the <a href="#">Chicago Convention</a>, which relates to the expedited management of customs, immigration services and clearance of aircrafts containing humanitarian assistance in response to disasters.</p> <p>In addition, Malawi is also a state party to the <a href="#">Kyoto Convention</a>, which speaks to the simplification and harmonization of customs procedures.</p> <p><b>We therefore recommend MRCS reach out to the DoDMA to advocate for the granting of IDRL facilities and possibly piloting the operational guidelines to the Draft DRM Bill. In the alternative, MRCS could advocate for the adoption of a <a href="#">Model Emergency Decree</a> would help addressing the gaps in the current legislation and ensuring that necessary legal facilities are provided.</b></p> |
| <b>Entry of humanitarian personnel</b>  | <p>Immigration in Malawi is regulated by the <a href="#">Immigration Act of 1964</a>, as amended, and the Immigration Regulations. The Immigration Act does not make special provision for the granting of expedited visas and work permits for international disaster assistance personnel.</p> <ul style="list-style-type: none"><li>○ For relief work requiring a <b>stay not exceeding six months</b>, a <a href="#">temporary residence permit</a> would be required (renewable for a further period of six months);</li></ul>   |

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|  | <ul style="list-style-type: none"> <li>○ For relief work requiring <b>a stay exceeding six months and up to two years</b>, a <b>Temporary Employment Permit (TEP)</b> would be required (the permit is renewable).</li> <li>○ Diplomatic Visas are granted to individuals who travel to the country for diplomatic activities. <ul style="list-style-type: none"> <li>➤ These individuals are diplomatic passport holders and are not subject to general immigration laws or customs duties.</li> </ul> </li> </ul>  |
| <b>Customs arrangements</b>  | <p>The <a href="#">Customs and Excise Act</a> is the main customs law in Malawi. In terms of its Seventh Schedule, it is provided that <b>a refund of the duty paid</b> shall be granted in respect of any goods where such refund is required <b>in terms of an agreement between the government and any other government, organisation, institution, body, or person.</b></p> <p>This could potentially be utilised by humanitarian organisations, but agreements would first need to be concluded with the Government of Malawi. In practice, this has been applied with <a href="#">a duty waiver on the importation of goods for the COVID-19 response</a> in Malawi.</p>   |
| <b>Relief flights</b>  | <p>The Malawi <a href="#">Aviation Act</a> comprises of the <a href="#">Air Transport Licensing Regulations</a>. Importantly, Regulation 3 exempts rescue and ambulance services, as well as <b>aircrafts carrying emergency food or emergency medical supplies from requiring a licence by agreement with the government.</b> In addition, the Minister of Transport and Public Works has been given extensive powers to formulate regulations and policies, including waiving fees as he deems fit under the Aviation Act.</p> <p>Importantly, Section 19 of the Aviation Act provides that regulations giving effect to, and carrying out the provisions of, the Chicago Convention, and any annexe thereto relating to international standards and recommended practices, may be developed</p> |
| <b>No clear provisions and exemptions explicitly provided for:</b> | <ul style="list-style-type: none"> <li>• Recognition of professional qualifications;</li> <li>• Freedom of movement of international assisting actors during a disaster response;</li> <li>• Use of cash in response operations;</li> <li>• Registration of International Assisting Actors;</li> <li>• Customs arrangement for specialised goods and equipment (communication equipment, food, medicine, vehicles); and</li> <li>• Safety and security of international assisting actors.</li> </ul>   |

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