

# **MALAWI ENGINEERING INSTITUTION BILL, 2014**

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## **A BILL**

entitled

An Act to provide for matters relating to the profession of Engineering in Malawi and to the qualification, registration and control of the members thereof; to establish the Malawi Engineering Institution, a body corporate, as the qualifying, registering and disciplinary authority of the profession; to repeal the Engineers Act (Cap. 53:03); and to provide for matters connected therewith and incidental thereto

ENACTED by the Parliament of Malawi as follows -

### **PART I - PRELIMINARY PROVISIONS**

Short title  
and  
commencement

1. This Act may be cited as the Malawi Engineering Institution Act 2014 and shall come into force on such date as the Minister may, by notice published in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires –

“Allied Discipline” or “Allied Profession” means a discipline or profession prescribed as such by the General Council;

“Approved Establishment” means any university, institute, college or school of engineering or other educational establishment approved by the General Council;

“Board” means the Engineering Registration Board (ERB) of the Institution established under section 20;

“Chairperson” means the Chairperson of the Board, or the Chairperson of the Disciplinary Committee of the Institution, or the Chairperson of a Section or Branch of the Institution;

“Corporate Member” means a body corporate or a division thereof accorded such membership under section 8 of this Act;

“Current Register” means that Part of the Register of registered members designated in accordance with section 24 of this Act;

“Disciplinary Committee” means the Disciplinary Committee of the Institution constituted under section 49;

“Engineering” means the doing or performing of any prescribed engineering work or activity constituting the practice of engineering under section 25 or of any other work or activity required under this Act or any other written law, to be done or performed by a person registered under this Act;

“Engineering Appointments” means appointments required under section 26 of this Act to be taken by persons registered under this Act as Professional Engineers, Technologists, Technician Engineers, Engineering Technicians and Craftspersons.

“Executive Secretary” means the Chief Executive Officer of the Institution;

“Financial Year” means the period commencing on the date of commencement and ending on the following 30<sup>th</sup> of June, and thereafter the period of twelve months from 1<sup>st</sup> July to 30<sup>th</sup> June of each year;

“General Council” means the governing council of the Institution constituted under section 15 of this Act;

“Main Register” means that Part of the Register of Registered Members designated as such in section 24 of this Act;

“the Minister” means Minister responsible for public works;

“Prescribed Engineering Work or Activity” means any engineering work or activity prescribed as the practice of engineering pursuant to section 25 of this Act and includes any other work or activity required under this Act, or under any other written law, to be done or performed by a person registered under this Act;

“President” means the President of the Institution, who shall also be the President of the General Council as stipulated in section 15 of this Act;

“Professional Engineer” means a person registered under this Act as a Member or a Fellow of the Institution;

“Register” means the Register of Honorary Fellows, Fellows, or Members, or Associate Members, or Graduate Engineers, or Student Members, or Technologists, or Technician Engineers, or Engineering Technicians, or Craftspersons as the case may be, maintained by the Engineering Registration Board pursuant to section 24 of this Act;

“Registered Mentor” means a person selected and registered as such by the Board for the purpose of mentoring Graduate Engineers preparing for registration as Members of the Institution;

“Registrar” means the Secretary to the Board, designated as such by section 20;

“Vice President” means the Vice President of the Institution and the General Council elected in accordance with section 15 of this Act.

## PART II - THE MALAWI ENGINEERING INSTITUTION

Establishment of  
the Malawi  
Engineering  
Institution

3.- (1) There is hereby established an Institution under the name of The Malawi Engineering Institution (hereinafter referred to as the “Institution”) which shall be a body corporate with perpetual succession and a common seal, with power to alter and change the same from time to time, and shall, under the said name, be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding or alienating property, real or personal and of doing all such acts and things as bodies corporate may by law do or perform.

Powers,  
Functions,  
Objects and  
Duties of the

4.- (1) The Institution shall be the sole qualifying and registering

Institution

authority of the engineering profession in Malawi and shall have the following powers-

- (a) to establish educational standards and qualifications for the engineering and allied disciplines in Malawi;
- (b) through the Board, to register engineers, technologists, technician engineers, engineering technicians, and craftspersons;
- (c) to exercise disciplinary control over the engineering and allied professions in Malawi;
- (d) to promote the general advancement of science and of engineering and allied disciplines in Malawi;
- (e) to purchase, lease, or otherwise acquire any property, real or personal, for or in connection with the exercise of any of its powers or objects;
- (f) to manage, insure, let, sell, alienate, mortgage or otherwise deal with any property of the Institution as it may deem necessary or expedient;
- (g) to do or perform any act necessary to or directed towards the furtherance of its objects as declared by sub-section (2);
- (h) to receive donations or gifts of moneys or other property

from any person or body of persons and, for the furtherance of its objects, to receive such donations or gifts beneficially or as the trustee of any trust established for the furtherance of such objects;

(i) to do or perform any act or thing prescribed by this Act to be done or performed by the Institution; and

(j) to employ administrative or executive staff or other servants or agents for the better administration of the affairs of the Institution, and to make provision for the salaries, wages, commissions and other conditions of service of such persons, including pensions, gratuities, loans and advances and other superannuation benefits.

(2) The objects and duties of the Institution shall be –

(a) to approve universities, institutes, colleges or schools of engineering or other such educational establishments within or outside Malawi, as accredited establishments whose training in engineering shall be acceptable training for the purposes of this Act;

(b) to maintain a Register of all persons who are entitled under this Act to practise engineering in Malawi as registered members;

(c) to prescribe, from time to time, by rule, the maximum

levels of engineering responsibility which may be imposed, by contract or by virtue of any employment, on graduate engineers, in respect of any engineering works, which may be determined by the Institution taking into account the class and extent of the relevant engineering works, the type and extent of the control of such works to be vested in such engineers; the knowledge and experience reasonably required of such engineers to efficiently exercise such control;

- (d) to maintain a Register of Mentors deemed by the Institution to be qualified to supervise the post-graduate training of graduate engineers in Malawi, as required by the Institution under this Act;
- (e) to prescribe, from time to time, principles of conduct and ethics to be followed by persons registered under this Act in Malawi, in the course of their practice as engineers, technologists, technician engineers, engineering technicians and craftspersons, and further to provide for disciplinary measures and penalties to be taken and enforced by the Institution for any infringement of any such prescribed principles;
- (f) to facilitate the acquisition of knowledge by members of

the Institution through the establishment of technical libraries, the provision of monetary grants, publications, apparatus, and any other facilities necessary to achieve this end;

- (g) to prescribe, from time to time, by regulations made with the prior approval of the General Council, syllabuses of subjects for examinations to be set and held by the Board of the Institution;
- (h) through the Board, to set and hold, from time to time, qualifying examinations for admission to the engineering profession in Malawi and for registration under this Act;
- (i) through the Board, to set and hold, from time to time, any other examinations, oral or written, as the Institution deems necessary for the purposes of this Act;
- (j) to issue certificates in the name and under the seal of the Institution to candidates who are successful in examinations conducted by the Board for the purposes of this Act;
- (k) to prescribe, from time to time, by regulations fees to be paid to the Institution in respect of examinations held or

prescribed by the Board for the purposes of this Act;

- (l) to prescribe, from time to time, by rule, any thing or matter, relating to the qualification of persons for registration, which is to be prescribed under this Act and for which no other prescribing authority is specified; and
- (m) to enter into arrangements with engineering qualifying bodies or authorities outside Malawi for the mutual correlation of qualifying standards of competence in engineering and for the reciprocal acceptance of qualifications.

Limitation of personal liability

5. No member of the Institution shall be personally liable for any action taken by him/her in good faith in his/her capacity as a member of the Institution and while duly authorised by the General Council.

Custody and use of the common seal

6.- (1) The common seal of the Institution shall be authenticated by the signatures of the President, or of the person for the time being performing the functions of President, and of one other member of the General Council designated by the General Council for such purpose, and any document purporting to be sealed with the said seal and so authenticated shall be admissible in evidence of the particulars stated in that document.

(2) The Institution may use a wafer or rubber stamp in lieu of an embossed seal until such time as an embossed seal is procured.

(3) The common seal of the Institution shall be kept in such custody and used in such manner as may be prescribed by the General Council.

Secretariat of the Institution and its Functions

7.- (1) The Secretariat of the Institution shall be headed by the Executive Secretary who shall be a Professional Engineer.

(2) The Secretariat shall have four departments, namely, Finance and Administration, Training and Continued Professional Development, Examinations and Registration, and Industrial and Public Relations.

(3) The Secretariat shall maintain a Register of all Honorary Fellows of the Institution.

(4) The budget for the Secretariat shall include office rent; office furniture and equipment, including Information and Communication Technology (ICT) facilities; registration and annual practicing licenses; payroll for staff members, stationery; local plus international conferences, and any other expenditure incidental to the smooth running of the Institution, as approved by the General Council.

(5) Any employee of the Institution or any consultant, adviser or contractor to the Institution shall disclose to the Executive Secretary any interest he/she or a member of his/her immediate family has, whether in a personal or professional capacity, in any matter that

is under consideration by the Institution, and the Executive Secretary shall take such decision as he/she deems appropriate in each case and submit a report thereon to the General Council.

### PART III- MEMBERSHIP OF THE INSTITUTION

Categories and  
classes of  
membership

8.- (1) There shall be seven categories of members registered by the Institution, namely Honorary Fellow, Registered Engineer, Registered Technologist, Registered Technician Engineer, Registered Engineering Technician, Registered Craftsperson and Corporate Member. Three of these categories shall have several classes of membership as stipulated below -

- (a) Honorary Fellow
- (b) Registered Engineers –
  - (i) Fellow;
  - (ii) Member;
  - (iii) Associate Member;
  - (iv) Graduate Engineer; and
  - (v) Student Member.
- (c) Registered Technologists.
- (d) Registered Technician Engineers –
  - (i) Technician Engineer; and
  - (ii) Trainee Technician Engineer.
- (e) Registered Engineering Technicians -

- (i) Engineering Technician; and
- (ii) Trainee Engineering Technician.

(f) Registered Craftspersons.

(g) Corporate Members, which shall comprise all companies, firms, organisations or departments thereof engaged in engineering practice in Malawi.

(2) The requisite qualifications for each category and class of membership are detailed in sections 29 to 41 inclusive of this Act.

(3) Membership of the Institution shall be sought through application to the Board, in accordance with section 28, all recommendations arising from such applications being referred to the General Council for final approval.

(4) Any persons who immediately prior to the commencement of this Act shall be members registered by the Board of Engineers as Engineers; Graduate Engineers; Technician Engineers; Engineering Technicians shall upon commencement of this Act, provided that their membership of these bodies shall not have lapsed for any reason, be eligible for admission to the appropriate member categories and classes of the Institution as determined by the General Council.

Designation of members

9.- (1) All members except Corporate Members shall be entitled to the following designations and, where applicable, post-nominal abbreviations -

- (a) Honorary Fellow of the Malawi Engineering Institution  
(Hon. FMwEI)
- (b) Engineers –
  - (i) Fellow of the Malawi Engineering Institution  
(PEng. FMwEI);
  - (ii) Member of the Malawi Engineering Institution  
(PEng. MMwEI);
  - (iii) Associate Member of the Malawi Engineering  
Institution (AMMwEI);
  - (iv) Graduate Engineer of the Malawi Engineering  
Institution; and
  - (v) Student Member of the Malawi Engineering  
Institution.
- (c) Technologist of the Malawi Engineering Institution  
(Tnl. MwEI);
- (d) Technician Engineers –
  - (i) Technician Engineer of the Malawi Engineering  
Institution (TEng. MwEI); and
  - (ii) Trainee Technician Engineer of the Malawi  
Engineering Institution.
- (e) Engineering Technicians -
  - (i) Engineering Technician of the Malawi  
Engineering Institution (ETnc. MwEI); and

(ii) Trainee Engineering Technician of the Malawi Engineering Institution.

(f) Craftspersons of the Malawi Engineering Institution (Cr. MwEI).

(2) Only a Professional Engineer of the Institution shall be entitled to use the pre-nominal Engineer or its abbreviation Eng.

Penalty for Unauthorised use of title or designation

10. Any person using the designations and/or post-nominal abbreviations stipulated in section 9 unlawfully shall be guilty of an offence and liable to a fine in accordance with the second schedule of the Regulations made under this Act.

Right to vote

11. All members except Students shall have a vote on any matters of the Institution that call for voting.

Suspension or expulsion of members and vacation of membership

12.- (1) A member of the Institution may be suspended or expelled from the Institution by a special resolution of the General Council on the recommendation of the Disciplinary Committee.

(2) A member may decide to vacate his/her/its membership of the Institution, giving reasons for such vacation and one month's notice in writing to the Institution's Registrar.

(3) A person who has been suspended or expelled from or has of his/her/its own volition vacated membership of the Institution

shall only be reinstated or readmitted with the authority of a General Council resolution.

Disclosure of conflicts of interest

13. If any member is present at a meeting of the Institution or of any committee of the Institution at which any matter which is the subject of consideration is a matter in which that member or an immediate member of the member's family or the member's professional or business partner is directly or indirectly interested in a private or professional capacity, the member shall, as soon as is practicable after the commencement of the meeting, disclose such interest, and the member shall not take part in any consideration or discussion of, or vote on any question relating to the matter.

Professional conduct

14. Members of the Institution shall in all professional activities be governed by the Code of Conduct prescribed under regulations made by the Minister on the advice of the General Council.

#### PART IV - THE GENERAL COUNCIL OF THE INSTITUTION

The General Council

15.- (1) There shall be the General Council of the Institution, responsible for the management and control of the affairs of the Institution.

(2) The following members shall constitute the General

Council -

- (a) the President, who shall ordinarily be a Fellow and a past Vice President of the General Council;
- (b) a Vice President, who shall ordinarily be a Fellow and who shall have previously served as a member of the General Council;
- (c) the Executive Secretary, who shall ordinarily be a Fellow or a Member;
- (d) an Honorary Treasurer, who shall ordinarily be a Fellow or a Member;
- (e) the Chairperson of the Board;
- (f) Chairpersons of the Sections of the Institution;
- (g) Chairpersons of the Branches of the Institution
- (h) a co-opted individual or representative of any other organisation recognised by the General Council, who shall be reconfirmed at the Annual General Meeting;
- (i) a representative from a Corporate Member representing the major employers of engineers in Malawi;
- (j) the Dean of the Faculty of Engineering of the University of Malawi and the Dean of any other establishment offering Engineering courses recognised by the General Council, who shall alternate their membership of the General Council with that of the Engineering

Registration Board;

(k) the Chairperson of the Association of Consulting Engineers in Malawi ;

(l) the Chairperson of the National Construction Industry Council of Malawi;

(m) the Principal Secretary responsible for public works or, where he/she attends by representation, the representative who shall be a Professional Engineer;

(n) the Principal Secretary responsible for the environment, energy and mining or, where he/she attends by representation, the representative shall be a Professional Engineer; and

(o) the Principal Secretary responsible for water resources or, where he/she attends by representation, representative shall be a Professional Engineer.

(3) All members from (h) to (o) shall be *ex-officio*.

(4) The President, Vice President, and Honorary Treasurer shall be elected at the Annual General Meeting of the Institution, and their term of office shall be two years. Any or all of the three can be re-elected provided they have not served two consecutive terms immediately before the elections.

(5) The General Council may for the purpose of performing

its functions under this Act establish committees or other bodies consisting of members of the Institution for the purpose of delegating to them such of its functions as it considers necessary so to do. Subject to any specific or general direction of the General Council, a committee or body established under this section may regulate its own procedures.

Meetings of the  
General Council

16.- (1) The General Council, for the transaction of its business shall meet at least once every quarter at such place or places and at such time or times as the President may determine.

(2) Ordinary meetings of the General Council shall be convened by at least fourteen days written notice to the members by the President and the President may, at his or her discretion, and shall at the written request of fifty percent or more members of the General Council and within seven days of such request, cause an extraordinary meeting of the General Council to be summoned at such place and time as s/he may appoint.

(3) The President or in his/her absence the Vice President, or in the absence of both the President and the Vice President, the members present and forming a quorum shall elect one of their number, for the purposes of chairing the meeting of the Council.

(4) At any meeting of the General Council, fifty percent plus one shall constitute a quorum, and voting on any decisions shall be by simple majority of those present: and the person chairing the meeting shall, in the event of a stalemate, have a casting vote in addition to his/her deliberate vote.

(5) No member of the General Council, any committee or other body established by the General Council shall be liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his/her duties under this Act.

(6) Office bearers and members of the General Council shall be paid from the funds of the Institution such allowances or other benefits as the Annual General Meeting of the Institution may, on recommendation from the General Council, from time to time approve.

(7) Subject to the other provisions of this Act, the General Council may regulate its own procedures.

#### PART V - SECTIONS AND BRANCHES OF THE INSTITUTION

Sections of the  
Institution

17.- (1) There shall be Sections of the Institution that shall be answerable to the General Council and responsible for the management and control of the affairs of each stream of membership.

These shall include -

- (a) The Civil Engineering Section;
- (b) The Mechanical Engineering Section;
- (c) The Electrical Engineering Section; and
- (d) Any other section as may be determined or approved by the General Council

(2) Each Section Committee shall consist of: -

- (a) a Chairperson, who shall be a Fellow or a Member of the Institution;
- (b) the immediate past Chairperson of the respective Section; and
- (c) a Secretary and Treasurer, who shall be Fellows or

Members; and

(d) up to six other members with, where applicable, at least one member from each of the membership classes.

(3) Members of each Section Committee shall be elected at the Annual General Meeting of the Institution every two years.

(4) Except as otherwise provided in this Act or in any Regulations made hereunder, the functions of the Section Committees shall be -

(a) to maintain registers of the names of all persons who are members of the Sections; and

(b) to perform all the functions as directed by the General Council, including receipt and expenditure of all moneys relating to the Section's activities, other than Institution membership subscriptions.

(5) Each Section Committee may for the purpose of performing its functions under this Act establish Sub-committees or other bodies consisting of members of the said Section for the purpose

of delegating to them such of its functions as it considers necessary so to do. Subject to any specific or general direction of the Section Committee, a Sub-committee or body established under this section may regulate its own procedures.

(6) Subject to the other provisions of this Act, each Section Committee may regulate its own procedures.

(7) A Section may be dissolved with the prior approval of the General Council.

(8) Every member of a Section shall be obliged to attend at least four professional meetings and/or functions per year, except where an apology has been given to the Section Chairperson.

(9) No member of any Section Committee, any Sub-committee or other body established by the said Section Committee under sub-section (5) shall be liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his/her duties under this Act.

Branches of the  
Institution

18.- (1) There shall be as many Branches of the Institution as the

General Council may approve, taking into consideration the numbers of institution members resident in the geographical regions of the country.

(2) Each Branch Committee shall consist of -

(a) a Chairperson, who shall be a Fellow or a Member of the Institution;

(b) the immediate past Chairperson of the respective Branch;

(c) a Secretary and Treasurer, who shall be Fellows or Members; and

(d) up to six other members with, where applicable, at least one member from each of the membership classes.

(3) Members of each Branch Committee shall be elected at the Annual General Meeting of the Institution every two years.

(4) Except as otherwise provided in this Act or in any Regulations made hereunder, the functions of the Branch Committees

shall be -

(a) to maintain registers of the names of all persons who are members of the Branches; and

(b) to perform all the functions as directed by the General Council, including receipt and expenditure of all moneys relating to the Branch's activities, other than Institution membership subscriptions.

(5) Each Branch Committee may for the purpose of performing its functions under this Act establish Sub-committees or other bodies consisting of members of the said Branch for the purpose of delegating to them such of its functions as it considers necessary so to do. Subject to any specific or general direction of the Branch Committee, a Sub-committee or body established under this section may regulate its own procedures.

(6) Subject to the other provisions of this Act, each Branch Committee may regulate its own procedures.

(7) A Branch may be dissolved with the prior approval of the General Council.

(8) Every member of a Branch shall be obliged to attend at least four professional meetings and/or functions per year, except where an apology has been given to the Branch Chairperson.

(9) No member of any Branch Committee, any Subcommittee or other body established by the said Branch Committee under Sub-section (5) shall be liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his/her duties under this Act.

Remuneration of office bearers

19 Office bearers and members of the Section and Branch Committees shall be paid from the funds of the Institution such allowances or other benefits as the General Council may, on recommendation from the Section and Branch Committees, from time to time approve.

#### PART VI – ENGINEERING REGISTRATION BOARD

Composition of the Board

**20-** (1) There shall be an Engineering Registration Board of the Institution which shall consist of -

(a) Professional Engineers nominated by the General Council from the following colleges –

- (i) Aeronautical, Aircraft, Automobile, Locomotive and Marine Engineering;
- (ii) Mechanical, Mechanical Production and Agricultural Engineering;
- (iii) Civil, Structural, Highway and Railway Engineering;
- (iv) Water, Environmental and Irrigation Engineering;
- (v) Electrical and Electronics Engineering, Information and Communication Technology and Energy Engineering;
- (vi) Geology and Mining;
- (vii) Metallurgy, Chemical and Production Process Engineering; and
- (viii) any other college approved by the General Council;

(b) a Member representing a Corporate Body nominated by the General Council. and

(c) the Dean of the Faculty of Engineering of the University of Malawi and the Dean of any other establishment offering Engineering courses in Malawi that are recognised by the General Council, who shall alternate their membership of the Board with that of the General Council.

(2) The Chairperson and Vice Chairperson of the Board shall be elected at a meeting of the Board to be convened not more than two weeks after their appointment, and they shall hold office for not more than two consecutive two-year terms.

(3) The Secretary to the Board shall be the Registrar for all purposes of this Act.

(4) The Secretary/Registrar shall be responsible to the General Council for the administration and management of the Board's affairs, and shall be in charge of all administrative and other staff of the Board, and, in all such matters, shall at all times be subject

to the direction and control of the General Council.

(5) The Secretary/Registrar shall exercise such powers, and perform such duties as the General Council may delegate to the Board in writing from time to time, and in any such delegation the General Council may impose such conditions as to the exercise of such powers or the performance of such duties as the General Council deems fit.

(6) The Secretary/Registrar may, with the approval of the General Council, employ such temporary or part-time staff as he deems necessary for the time being to efficiently effect the objects of the Board.

(7) The Institution shall be responsible for all salaries and other expenses incurred in relation to persons employed under Subsection 20 (6).

Remuneration of  
office bearers and  
members

21. Office bearers and members of the Engineering Registration Board shall be paid from the funds of the Institution such allowances or other benefits as the General Council may, on recommendation from the Board, from time to time approve.

Procedures and conditions for electing members of the Board

22. (1) The following conditions and procedures shall be met and followed when electing members of the Board –

- (a) candidates shall be resident in Malawi at the time of election;
- (b) not less than six weeks before the Annual General Meeting of the Institution, the General Council or a Nominations Committee established by the General Council shall call for nominations by notice to Branches, Sections, and all other Nominating Colleges;
- (c) nominations shall be made on nomination forms approved by the General Council;
- (d) all candidates shall be nominated by three registered members from their respective Nomination Colleges, one of whom shall be the Proposer, the other two being Supporters;
- (e) candidates shall sign their nomination forms to signify their willingness to serve on the Board;
- (f) all valid nomination forms shall be received by the Honorary Secretary of the Institution not less than four weeks before the Annual General Meeting of the Institution;
- (g) not less than two weeks before the Annual General

Meeting of the Institution, the Honorary Secretary of the Institution shall circulate to all registered members a list of valid nominations together with the details of each candidate;

- (h) voting shall be by secret ballot;
- (i) Each member present during the elections shall have one vote in each Nominating College; and
- (j) where in the election of a member from any of the Nominating Colleges two or more candidates receive the same number of votes, a second ballot shall be conducted to decide the winner between or amongst such candidates.

Meetings of the Board

23. (1) The Board shall for the transaction of its business meet at least once every quarter and whenever directed so to do by the General Council, at such places as the Board may determine.

(2) At every meeting of the Board, fifty percent plus one of the members shall constitute a quorum.

(3) Every meeting of the Board shall be presided over by the Chairperson or, in his/her absence, the Vice Chairperson or, in the absence of both the Chairperson or Vice Chairperson the members

present and forming a quorum may elect one of their number for the purpose of chairing that meeting.

(4) A decision of the Board shall be by a simple majority of the members present and voting at the meeting; and the person chairing the meeting shall in the event of a stalemate have a casting vote in addition to his/her deliberative vote.

(5) Subject to the other provision of this Section, the Board may regulate its own procedures.

Registers of  
members

24. - (1) The Board shall, for the purposes of this Act, keep and maintain, in the appropriate prescribed forms the following registers-

(a) a Register of Professional Engineers;

(b) a Register of Associate Members;

(c) a Register of Graduate Engineers;

(d) a Register of Mentors;

(e) a Register of Student Members;

- (f) a Register of Technologists;
- (g) a Register of Technician Engineers;
- (h) a Register of Engineering Technicians; and
- (i) a Register of Craftspersons.

(2) The Registers shall be in the custody and under the control of the Registrar and shall be kept at the offices of the Institution or at such other place in Malawi as the General Council may direct.

(3) The Registrar shall perform such duties in connection with the Registers as may be prescribed, and, in this regard, shall be under the control of the General Council in the performance of such duties.

(4) The Registers referred to in subsection (1) shall, at all reasonable times, be open to inspection by: -

- (a) public officers and members of the police service in the

course of duty; and

(b) members of the public, upon payment of the fee prescribed in the First Schedule of the Regulations made under this Act.

(5) Every person registered under this Act as a registered member shall, before the 1<sup>st</sup> of January each year, pay to the Institution such annual subscription fee and in such manner as may be prescribed in the Regulations made under this Act.

(6) The Registers of members referred to under subsection (1) shall each be kept and maintained in two Parts, as follows -

(a) Part I which shall be designated as the “Main Register” and in which shall be registered every person, whether resident in Malawi or not, who is registered under this Act to practise engineering and whose registration has not been cancelled under this Act or any regulations made under this Act;

(b) Part II which shall be designated as the “Current Register” and in which shall be registered every person

who -

- (i) is resident in Malawi;
- (ii) is registered in the Main Register;
- (iii) has paid the prescribed annual subscription fee;

and

- (iv) has, in the preceding year, earned adequate Continued Professional Development points as stipulated in Regulations made under this Act.

(7) The Registrar shall, once in every year and as soon as may be convenient after 1<sup>st</sup> January, publish in the print media the names, addresses, qualifications, date of registration and other particulars of all persons registered in the Current Register.

Practice of  
Engineering

25. - (1) For purposes of registration, Practice of Engineering shall mean any service or creative work, the adequate performance of which requires engineering education, training, and experience in the application of special knowledge of the Mathematical, Physical and Engineering Sciences to such services or creative work as consultation, investigation, planning, design, and design coordination

of engineering works and systems; planning the use of land and water, teaching of advanced engineering subjects, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications; any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress and completion of any engineering services.

(2) Design coordination includes the review and coordination of those technical submissions prepared by others, including as appropriate and without limitation, Consulting Engineers, Architects, Landscape Architects, Land Surveyors, and other professionals working under the direction of the engineer.

(3) Engineering surveys include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or re-surveys of the public land survey system.

Engineering  
appointments

26.- (1) Posts shall be filled by registered members of the Institution if they require the holders to have the roles and responsibilities stipulated in regulations made under this Act.

(2) For the purposes of this section, registered members shall, unless the General Council directs otherwise, normally mean:

- (a) Fellows;
- (b) Members;
- (c) Associate Members;
- (d) Graduate Members;
- (e) Technologists
- (f) Technician Engineers;
- (g) Engineering Technicians; and
- (h) Craftspersons.

Registration as a  
prerequisite for  
practice

27.- (1) Save where this Act otherwise provides, no person or body corporate shall engage in the practice of engineering in Malawi, or hold him/her/itself out as being entitled so to do, unless he/she/it is registered under this Act.

(2) Any person or body corporate who or which engages in

the practice of engineering in contravention of subsection (1) of section 25 shall not be entitled to recover in any court any charge or fee in respect of any engineering work or activity done or performed by him/her/it in the course of the said practice.

(3) The Institution may under special circumstances grant exemption from registration, provided that such exemption shall be in writing and shall contain such conditions as shall be deemed necessary by the General Council.

Applications for registration

28. Every application for registration under this Act shall be made to the Institution in the form and manner prescribed and shall be submitted to the Registrar of the Board with the appropriate fee prescribed in the First Schedule of the regulations made under this Act.

Registration as an Honorary Fellow

29. - (1) Any person shall be nominated and registered by unanimous vote of the General Council as an Honorary Fellow, if the Institution desires to honour him/her for distinguished work as a Member or for exceptional and important services related to engineering or rendered to the Institution.

Registration as a Fellow

30. Any person shall be entitled to make an application for

registration as Fellow if at the time of his/her application he/she -

- (a) is at least thirty-five years of age; and
- (b) is normally engaged in a position of superior responsibility in the engineering profession, an educational sphere or engineering research of a nature approved by the General Council; and
- (c) is registered as a Member under this Act.

Registration as a  
Member

31. - (1) Any person shall be entitled to make an application for registration as a Member if he/she has –

- (a) attained twenty-five years of age;
- (b) in consequence of an examination, obtained from an approved establishment an engineering degree or other qualifying certificate which the General Council considers acceptable for registration;
- (c) has, for the prescribed period, been registered as a Graduate Engineer under this Act, and has complied with all of the

conditions attaching to his/her registration as such Graduate Engineer; and

(d) passed the appropriate Engineering Qualifying Examination;

(2) Where a person who applies for registration as a Member has not complied with the requirements of subsection (1) (b), but has, in consequence of an examination, obtained a degree or other qualifying certificate from an establishment which is not an accredited one, the General Council, if it is of the opinion that such degree or qualifying certificate is academically equivalent to a degree or qualifying certificate of an accredited establishment and is acceptable for registration, may, in its absolute discretion, in the case of such person, waive the requirements of subsection (1) (b).

(3) Where a person who applies for registration as a Member-

(a) has complied with the requirements of subsection 33 (1) (b) or in whose case the General Council has waived compliance therewith, pursuant to subsection (2); and

(b) shows, to the satisfaction of the Board, that, since obtaining his/her degree or qualifying certificate, he/she

has been engaged in active practice as an engineer for a period or periods totalling not less than three years,

the Board may make a recommendation to the General Council, which in its absolute discretion may in the case of that person waive the requirements of subsection (1) (c).

(4) If the General Council is satisfied that the applicant is of good character and is a fit and proper person to be registered, and that he has complied with all of the relevant requirements of this section, save such as have, in his case, been waived by the General Council pursuant to Subsection (2) or subsection (3), it shall direct the Registrar to register the said applicant as a Professional Engineer.

Registration as an Associate Member

32. - (1) Any person shall be entitled to make application for registration as an Associate Member under this Act if -

(a) he/she is at least thirty years of age; and

(b) he/she has complied with the requirements of subsection (1) (b) of section 31 or with such of those requirements as have not, in his/her case been waived by the General Council under subsection (2) as the case may be; and

(c) he/she is engaged in work of a technical nature and has been in a position of responsibility for at least five years; and

(d) he/she can satisfy the General Council through the submission of a project report and through an interview that he has acquired a standard of technical proficiency and responsibility considered satisfactory by the General Council, but falls short of meeting the requirements for registration as a Member.

(2) The General Council may, from time to time, prescribe further conditions attaching to registration as an Associate Member.

Registration as a  
Graduate  
Engineer

33. - (1) Any person shall be entitled to make application for registration as a Graduate Engineer under this Act if he/she has complied with requirements of section 31 (1) (b) or with such of those requirements as have not, in his/her case, been waived by the General Council under section 31 (2), as the case may be.

(2) The provisions of sections 31 (1) (b), (2) and (3) (a) shall apply,

*mutatis mutandis*, to every application made under this section

(3) If the General Council is satisfied that the applicant for registration under this section is of good character and is a fit and proper person to be registered, and that he/she has complied with all of the relevant requirements of this section, save such as have, in his case, been waived pursuant to section 31 (2), it shall direct the Registrar to register the said applicant in the Register of Graduate Engineers, and the Registrar shall make the appropriate entry in the said Register.

(4) Every Graduate Engineer registered pursuant to this section shall be entitled to practise engineering, as an engineer in training, by agreement with and under the direction or control of a Registered Mentor, registered as such under this Act.

(5) The General Council shall in the Regulations prescribe the period of training required of Graduate Engineers pursuant to subsection (4).

(6) The General Council may, from time to time, prescribe further conditions attaching to registration as a Graduate Engineer.

(7) Every agreement made between any Graduate Engineer and any Registered Mentor for the purposes of this section shall be in writing in a form approved by the General Council and shall be executed by both parties thereto in triplicate and delivered to the Registrar by the Registered Mentor concerned for noting in the Register of Graduate Engineers, whereupon the Registrar shall retain one copy thereof and without undue delay cause the other copies, duly endorsed by him, to be delivered to the parties thereto, respectively. Failure to deliver such agreement to the Registrar pursuant to this subsection within two months after the execution thereof shall render such agreement void.

(8) Every Registered Mentor shall, not earlier than the 1<sup>st</sup> of October and not later than the 31<sup>st</sup> of December of each year, make, in the prescribed form, a report to the Board on the progress and quality of the work of each Graduate Engineer in training under his direction or control pursuant to subsection (4).

(9) This section shall not apply to any person in whose case the requirements of Subsection 31 (1) (c) have been waived by the General Council, pursuant to subsection (3) of section 31.

Registration as a Student Member

34. Any person shall be entitled to make an application for registration as a Student Member under this Act if he/she is pursuing an engineering course at an accredited establishment that shall upon completion lead to his/her satisfying the requirements of subsection (1) (b) of section 31.

Registration as a Technologist

35.- (1) Any person shall be entitled to make an application for registration as a Technologist under this Act if –

(a) he/she has obtained a degree or diploma in an allied discipline from a recognised institution or any other qualification from an accredited establishment which the General Council considers acceptable for registration and, subsequent to his/her attaining the qualifying degree, diploma or other acceptable qualification he/she:

(i) as received practical training from approved employment or an approved establishment as a technologist for a period of not less than two years; and

- (ii) he/she is at least thirty years of age;
- (iii) he/she is engaged in work of a technical nature and has been in a position of responsibility for at least five years; or
- (iv) he/she produces evidence satisfactory to the General Council of his registration in any other country at an equivalent level by a registration authority of that country recognized by the General Council.

(2) If the General Council is satisfied that the applicant is of good character and is a fit and proper person to be registered and that he has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant in the Register of Technologists.

Registration as a  
Technician  
Engineer

36. - (1) Any person shall be entitled to make an application for registration as a Technician Engineer under this Act if –

- (a) he/she has obtained a diploma in engineering from the

University of Malawi or has obtained from an accredited establishment other qualifications which the General Council considers acceptable for registration and, subsequent to his/her qualifying diploma or certificate, he/she;

(i) has received practical training from approved employment or an approved establishment as a technician engineer for a period of not less than two years; and

(ii) has had a minimum of three years' relevant engineering experience at least two years of which have been at a level of responsibility commensurate with the duties of a technician engineer; or

(b) he/she produces evidence, satisfactory to the General Council, of his registration in any other country at an equivalent level by a registration authority of that country recognized by the General Council.

(2) If the General Council is satisfied that the applicant is of good character and is a fit and proper person to be registered and that he has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant in the Register of Technician Engineers.

Registration as a  
Trainee  
Technician  
Engineer

37. Any person shall be entitled to make an application for registration as a Trainee Technician Engineer under this Act if he/she has obtained a diploma in engineering from a recognised institution or has obtained from an accredited establishment other qualifications which the General Council considers acceptable for registration and, subsequent to his/her qualifying diploma or certificate, he/she is undergoing practical training from approved employment or an approved establishment as a technician engineer.

Registration as an  
Engineering  
Technician

38. - (1) Any person shall be entitled to make an application for registration as an Engineering Technician under this Act if –

(a) he/she has obtained a technician diploma in a relevant branch of engineering from the Polytechnic of Malawi or has obtained from an accredited establishment other qualifications which the General Council considers acceptable for registration and, subsequent to his

qualifying certificate he/she;

(i) has received practical training from approved employment or an approved establishment as a technician for a period or not less than two years; and

(ii) has had not less than two years' experience as a technician; or

(b) he/she produces evidence satisfactory to the General Council of his registration in any other country at an equivalent level by a registration authority of that country recognized by the General Council.

(2) If the General Council is satisfied that the applicant is of good character and is a fit and proper person to be registered and that he has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant in the Register of Engineering Technicians.

Registration as a  
Trainee  
Engineering  
Technician

39. Any person shall be entitled to make an application for registration as a Trainee Engineering Technician under this Act if

he/she has obtained a technician diploma in a relevant branch of engineering from the Polytechnic of Malawi or has obtained from an accredited establishment other qualifications which the General Council considers acceptable for registration and, subsequent to his qualifying certificate he/she is undergoing practical training from approved employment or an approved establishment as a technician.

Registration as a  
Craftsperson

40. - (1) Any person shall be entitled to make an application for registration as a Craftsperson under this Act if he/she –

(a) has obtained a Grade I National Trade Test Craftsperson's certificate in a relevant branch of engineering from an approved Technical College or has obtained from an approved establishment other qualifications which the General Council considers acceptable for registration and, subsequent to his qualifying certificate he/she;

(i) has received practical training from approved employment or an approved establishment as a craftsperson for a period of not less than two years; and

(ii) has had not less than two years' experience as a craftsman; or

(b) produces evidence satisfactory to the General Council of his registration in any other country at an equivalent level by a registration authority of that country recognized by the General Council.

Registration of a Corporate Body or Division, Department or section thereof

41. A Statutory Corporation, a Company an Association or other Body, Division, Department or Section which -

(a) is directly engaged in engineering activity; or

(b) is professionally interested in engineering or an allied discipline in Malawi; and

(c) has one or more members of staff who are Fellows or Members of the Institution,

shall be required to register with the Institution and shall, on application to the General Council through the Engineering Registration Board, be admitted as a Corporate Member.

42. - (1) The Institution shall, through the Board, from time to time set, arrange and hold an examination (herein referred to as the “Engineering Qualifying Examination”) for the purposes of registration under this Act.

(2) Every person, other than a person who is exempted from this requirement or in whose case this requirement has been waived under any other provision of this Act, who intends to apply for registration under this Act, shall, before making application for such registration, submit him- or herself to the Board as a candidate for, and pass, the Engineering Qualifying Examination.

(3) The Board may, in its discretion, arrange the Engineering Qualifying Examination into two or more separate parts, according to examination subjects, and may provide separate dates or times for the holding of examinations in such separate parts, and may further provide that such parts be independent of, or be interdependent upon, each other:

Provided, however, that, where such parts are independent of each other, a candidate shall not be deemed to have successfully passed the Engineering Qualifying Examination unless and until he/she has passed an examination in all parts, which taken together, would

constitute successfully passing an examination in every part or subject into which the Engineering Qualifying Examination has been so divided by the Board.

(4) The Engineering Qualifying Examination may be written or oral, or partly written and partly oral.

Registration of qualified foreign engineers and firms.

43. Any other provision of this Act to the contrary notwithstanding, any person or firm who or which is qualified as an engineer or engineering firm and entitled to practise engineering in any other country, whose qualifying requirements for the practice of engineering in such country are acceptable to the Institution as sufficient for the purposes of this section and has, for a period of not less than two years prior to his/its application under this section, practised as a qualified engineer or engineering firm in such country, shall be entitled to make an application to the Institution for registration as a registered member under this Act.

Selection and registration of mentors

44. - (1) The Board may, from time to time, select from among the engineers registered pursuant to this Act, such Professional Engineers as, in the opinion of the Board, possess the qualifications and experience necessary for the training of Graduate Engineers registered

as such pursuant to this Act.

(2) Such Professional Engineers selected by the Board in accordance with subsection (1) shall be recommended to the General Council for registration as Registered Mentors and upon the General Council's approval be registered as such in the Register of Registered Mentors.

(3) Registration of a Professional in the Register of Registered Mentors shall in no way affect or alter his/her registration in the relevant register of Professional Engineers (Fellows or Members).

(4) The General Council may, in its absolute discretion, at any time cancel the registration of any Professional in the Register of Registered Mentors, and shall not be required to give or disclose to any person any reason for such cancellation.

Correction of  
Registers

45. - (1) The Registrar may, with the prior approval of the General Council, from time to time, make any necessary alteration or correction in any Register in relation to any entry therein.

(2) The Registrar shall remove from any register the name of any deceased person, and shall, when directed by the General Council so to do, remove from any register any entry which has been incorrectly or fraudulently made therein.

(3) The Registrar may, with the consent, in writing, of the person concerned, remove from any register the name of any person who has ceased to practise engineering in Malawi.

(4) Any name removed from any register pursuant to subsection (3) shall, at the request in writing of the person concerned and subject to the approval of the General Council, be reinstated in the said register.

Non-eligibility for registration

46. No person or body corporate shall be eligible for registration if he/she/it -

(a) has been convicted of an offence involving dishonesty;

(b) has been adjudged or otherwise declared to be of unsound mind under any law in force in the Republic of Malawi; or

(c) has been declared bankrupt.

Certificates,  
membership card  
and Professional  
Engineer's stamp

47. - (1) The Registrar shall issue to every person or body corporate registered under this Act a Certificate of Registration and, in the case of a Professional Engineer only, a Professional Engineer's Stamp in the approved form.

(2) In addition to the Certificate of Registration, which shall signify registration of the recipient in the Main Register, every registered member shall at the beginning of each year or as close thereto as possible and upon payment of his/her annual subscription be issued with a Practicing Certificate and a Membership Card that shall be valid up to the 31<sup>st</sup> of December next following. These shall signify the registration of the recipient in the Current Register and the certificate shall be displayed at the recipient's workplace.

(3) Any person or body corporate without a valid Practicing Certificate shall be guilty of an offence if he/she/it:

(a) carries on with the practice of engineering in the Republic of Malawi as stipulated in section 25 of this Act;

- (b) accepts any appointment for which registration is required as stipulated in section 24 of this Act;
- (c) teaches, practices, or offers his/her/its services or holds himself/herself/itself out to be a qualified professional or professional body in engineering or allied disciplines;
- (d) adopts, uses or exhibits the titles Fellow, Member, Associate Member, Registered Technologist, Registered Technician Engineer, Registered Engineering Technician, Registered Craftsperson, or any of the applicable corresponding post-nominal abbreviations; or
- (e) does anything likely to lead persons to infer that he/she/it is a registered engineering practitioner.

(4) The Board shall put in place a system for monitoring the activities of all members registered by it whereby at the end of each year members shall be assessed for eligibility for practicing certificates in the following year. Such monitored activities shall include participation in Continued Professional Development programmes and functions as prescribed by the Council through regulations in line with section 68 of this Act.

(5) The Registration and Practicing Certificates issued in accordance with this section may be cancelled by the Institution if: -

(a) it is proved to the satisfaction of the General Council that the registration was obtained through fraud, misrepresentation or concealment of any fact; or

(b) the person to whom it was issued ceases to be a member of the Institution.

(6) Before such cancellation, the Board shall give a registered member fourteen days' notice of the intention to cancel and require the member to show cause, if any, why his/her/its practicing certificate should not be cancelled. Consequent to such cancellation, the member shall be deregistered and his/her/its name shall be removed from both registers.

Establishment of  
Committees

48. The Board may at its own discretion establish as many Committees as it deems necessary for the proper discharging of its duties.

## PART VII - DISCIPLINARY PROVISIONS

Composition of  
the Disciplinary  
Committee

49. - (1) There shall be a Disciplinary Committee of the Institution which shall consist of –

- (a) a Chairperson, elected at the Annual General Meeting, who must be a Professional Engineer;
- (b) a Secretary, elected at the Annual General Meeting, who must be a Professional Engineer;
- (c) four registered members, at least one each from the three Sections, who are not members of their respective Section Committees, each nominated by the relevant Section and approved by the Annual General Meeting;
- (d) a Legal Practitioner appointed by the General Council in consultation with the Malawi Law Society and approved by the Annual General Meeting.

(2) Members of the Disciplinary Committee shall hold office for two years and may be re-elected upon expiry of their terms.

Functions of the  
Disciplinary  
Committee

50. The Disciplinary Committee shall be empowered to –

(1) inquire into the conduct of all registered members, namely, Professional Engineers, Associate Members, Graduate Engineers, Mentors, Technologists, Technician Engineers, Engineering Technicians, Craftspersons and Corporate Members, in accordance with the provisions of this Part, and to report its findings on any such inquiry, and make recommendations thereon, to the General Council; and

(2) hear and determine any complaint or allegation against all organs of the Institution, and report its findings and make recommendations on the same to the General Council.

Proceedings of the  
Disciplinary  
Committee

51. - (1) If the General Council is of the opinion that any Professional Engineer, Associate Member, Graduate Engineer, Mentor, Technologist, Technician Engineer, Engineering Technician, Craftsperson or Corporate Member –

(a) in the course of his/her/its professional work as a registered member, knowingly and habitually engages in practices which are dishonest or fraudulent; or

- (b) has contravened any provision of this Act or any relevant regulation or rule of professional conduct made under this Act; or
- (c) has been guilty of professional misconduct or of conduct or acts in relation to his/her/its professional practice unbecoming to a member of the engineering profession; or
- (d) has failed, within a reasonable time, to comply with any requirement or condition imposed upon him by the General Council in its ruling on a previous inquiry into his professional conduct, held pursuant to this Act; or
- (e) has, notwithstanding the suspension of his registration pursuant to this Act, engaged in the practice of engineering contrary to the terms and conditions of such suspension; or
- (f) has, within one year last past, for an offence against any

written law, been sentenced to a term of imprisonment of not less than one year save as an alternative to, or in default of the payment of fine,

it may direct the Secretary to the Disciplinary Committee, in writing, to convene a meeting of the Disciplinary Committee to conduct an inquiry, in accordance with section 51.

(2) Upon receipt from the General Council of the direction in writing referred to in subsection (1), the Secretary to the Disciplinary Committee shall, as soon as is practicable, by notice in writing to the members of the Disciplinary Committee, convene a meeting of the Committee for a date not earlier than one month, or later than three months, after the date of the said notice, for the purpose of conducting an inquiry into the matters of complaint in the said direction in writing contained.

(3) The provisions of sections 10, 11, 12 and 13 of the Commissions of Inquiry Act shall apply, *mutatis mutandis*, to an inquiry under this Part, as if the Disciplinary Committee established under this Act were Commissioners appointed pursuant to that Act, save that the Professional Engineer, Associate Member, Graduate Member, Mentor, Technologist, Technician Engineer, Engineering Technician,

Craftsperson or Corporate Member into whose conduct the inquiry is being conducted, shall not be entitled to his/her/its expenses incurred for the purpose of attending the said inquiry.

(4) Any four members of the Disciplinary Committee, including the Chairperson, shall constitute a quorum of the Committee.

(5) The Chairperson or, in his absence, the person appointed by members present at that particular meeting, shall preside at every meeting of the Disciplinary Committee and shall have a deliberative vote thereat and, in the event of an equality of votes, shall also have a casting vote.

(6) All proceedings of the Disciplinary Committee shall be held in camera.

(7) The member whose conduct is the subject matter of any inquiry held under this Part, may be represented at such inquiry by any registered member (other than a member of the General Council, any of the Councils, the Engineering Registration Board, or of the Disciplinary Committee) nominated by such Member, or he/she may be represented thereat by any legal practitioner or by both such

registered member and such legal practitioner.

(8) If a Corporate Member is the subject of such inquiry, it may be represented by a member of its Management or any legal practitioner or by both such member of Management and legal practitioner.

(9) If the inquiry is the result of any complaint or allegation against any organ of the Institution, the organ may be represented by any of its members or by a legal practitioner, or by both such member and legal practitioner.

(10) A decision of the Disciplinary Committee shall be by a simple majority of votes of members present and voting.

(11) The Disciplinary Committee shall cause to be kept records of all its proceedings, and shall within fourteen days after completion of each hearing submit to the General Council a report on the proceedings together with a copy of the record thereof. Such proceedings and records shall be protected.

(12) The General Council, through the Secretariat, shall

receive complaints and refer them to the Disciplinary Committee, which shall determine whether or not there is a case. The foregoing notwithstanding, the Disciplinary Committee may, in the conduct of each such inquiry, determine its own procedure.

Exclusion of  
Committee  
member from an  
inquiry

52. - (1) If any member of the Disciplinary Committee or his/her spouse, or if any company of which he/she is a director or major shareholder, or any partner of such member or his/her spouse, has or acquires any pecuniary interest, direct or indirect, in any matter out of which the complaint under inquiry arose and in which his/her private interests conflict with his/her duties as a member of the Disciplinary Committee, or if he/she or his/her spouse is related by consanguinity or affinity to the person whose conduct, or whose complaint, is under inquiry by the said Committee, he/she shall, as soon as he/she becomes aware of such interest in such matter, or of such relationship to such person, disclose the facts relating thereto to the General Council, and shall neither participate in the conduct of such inquiry, nor take part in the consideration of any matter before the General Council which relates to the subject matter of the said inquiry or to the recommendations of the said Committee thereon.

(2) For the purposes of this section, the expression “major shareholder” means any person who, at the relevant time, has the power to exercise or control not less than ten *per centum* of the voting

rights in the relevant company, whether by reason of shareholdings, debenture holdings, proxy or otherwise.

Powers of the  
Disciplinary  
Committee

53. - (1) The Disciplinary Committee may, for purposes of any inquiry, hear and receive any evidence and may administer oaths.

(2) Any member summoned to appear before the Disciplinary Committee who, without sufficient cause -

(a) refuses or fails to attend at the time and place specified in the summons, or having attended leaves without the permission of the Committee; or

(b) upon attending refuses to be sworn or to affirm; or

(c) refuses without lawful excuse to answer to the best of his/her knowledge any question put to him/her; or

(d) refuses to produce any book, record, document or thing which he has been required by summons to produce, shall be guilty of an offence and shall be liable upon conviction to a penalty in accordance with the Second

Schedule of the Regulations made under this Act; provided that no such person shall be compelled to answer any question or produce any book, record, document or thing which he/she could not be compelled to answer or produce in the trial of an action in the High Court.

Professional  
Misconduct

54. Registered members shall be guilty of professional misconduct if, in the course of their practice, they -

- (a) allow any persons, other than those registered in their employ, to practice in the name of a registered member;
- (b) unlawfully disclose or use to their advantage any information which was acquired in the course of their professional engagement with their clients;
- (c) certify or submit in their names or in the names of their firms reports, documents, drawings, statements and related records which have not been made by them, their partners or members employed by their firms;
- (d) permit their names or names of their firms to be used in connection with technical specifications, designs or

financial calculations contingent upon future transactions in the manner which may lead reasonable people to infer that they vouch for the accuracy of information in such documents;

(e) charge for professional work, fees other than those stipulated in the scales approved by the General Council;

(f) fail to report their clients' interest, fail to disclose, or knowingly conceal from such clients misstatements or facts known to themselves and disclosure of which is necessary for the reports not to mislead; or

(g) give opinions in a professional capacity without obtaining sufficient information thereof.

Penalties  
imposable by the  
Disciplinary  
Committee

55. - (1) Where the Disciplinary Committee, after due inquiry finds a member of the Institution guilty of professional misconduct, it may impose one or more penalties in accordance with the Second Schedule of the regulations made under this Act.

(2) In any hearing before the Disciplinary Committee, any

decision which is shown to have been made by any court in Malawi shall be conclusive evidence of the facts so found.

Appeals to  
the General  
Council

56. - (1) A member who is aggrieved by any decision of the Disciplinary Committee may within thirty days of the notification to such member of the said decision, appeal to the General Council Secretariat.

(2) The Secretariat may, upon receiving an appeal against the findings and recommendations of the Disciplinary Committee -

(a) confirm, vary or set aside any findings of, penalty recommended or direction given by the Committee; or

(b) refer the matter back to the Committee for further deliberation and consideration; or

(c) appoint an Appeals Committee to reconsider the matter.

(3) Where the Disciplinary Council or Appeals Committee has decided to recommend deregistration as a penalty for the offence committed by the member, such deregistration shall not take effect until after the expiration of the time allowed for lodging an appeal

against such decision.

(4) Where deregistration is found to have been due to a minor offence, the General Council may approve re-registration of the member after a specified period.

#### PART VIII - FINANCIAL AND ACCOUNTANCY PROVISIONS

Funds of the  
Institution

57. The funds of the Institution shall consist of -

(a) such moneys or other property as may be payable to or vest in the Institution whether in the course of the exercise of its powers or functions or otherwise; and

(b) such moneys or other property as may be payable to or vest in the Institution pursuant to this Act or any other written law or pursuant to any trust or gift.

Investment  
powers

58. The General Council shall have powers to invest any moneys which are not immediately required for its objects.

Borrowing  
powers

59. The Institution may borrow temporarily, by way of overdraft or otherwise, such sums as it may require for meeting its obligations or

discharging its functions under this Act.

Annual Budgets

60. The Institution shall, in relation to each financial year, submit for approval to the Annual General Meeting both Capital and an Income and Expenditure budgets.

Books, accounts, audits and reports

61. - (1) The Institution shall cause to be kept proper books of accounts and other records in relation to all moneys or other property vested, received or otherwise obtained, and of all moneys expended or other property sold or otherwise disposed of, by the Institution.

(2) The accounts of the Institution shall be audited annually by professional auditors appointed by the General Council of the Institution and approved by the Annual General Meeting.

(3) The expenses of, and incidental to, any audit shall be payable out of the funds of the Institution.

(4) The Institution shall, as soon as is practicable, but not later than six months after the end of each financial year, submit to the Annual General Meeting an annual report upon its work and operations.

(5) Such report shall include a balance sheet, an income and expenditure account and the annual report of the auditors.

#### PART IX - OFFENCES

Unlawful practice  
of Engineering

62. - (1) Save where this Act otherwise provides, any person or body corporate who or which is not registered under this Act, and who or which, in Malawi –

(a) engages, or purports to engage, in the practice of engineering;

(b) holds him/herself or itself out as being entitled to engage in the practice of engineering; or

(c) does or performs, or purports to do or perform, any act or thing which, under this Act may be done or performed exclusively by a person or body corporate registered under this Act,

shall be guilty of an offence and liable to a penalty as stipulated in the Second Schedule of the Regulations made under this Act,

Unlawful use of  
titles or

63. Any person who, in relation to him/herself or to any business

descriptions

which he/she owns, manages or controls, assumes or uses, in Malawi -

- (a) the title or description of “Fellow” or pre-nominal “Engineer”;
- (b) the title or description of “Professional Engineer” or pre-nominal “Engineer”;
- (c) the title or description of “Associate Member”;
- (d) the title or description of “Graduate Engineer”;
- (e) the title or description of “Registered Mentor”;
- (f) the title or description of “Technologist”;
- (g) the title or description of “Technician Engineer”;
- (h) the title or description of “Engineering Technician”;
- (i) the title or description of “Craftsperson”; or
- (j) any applicable abbreviation of any such title or

description, without being registered as such under this Act,

shall be guilty of an offence and liable to a penalty as stipulated in the Second Schedule of the Regulations.

Employment of non-registered persons

64. - (1) Any person or body corporate who or which, without the prior written consent of the Institution –

(a) employs any person not registered under this Act to do or perform; or

(b) during the course of this employment of any person not registered under this Act, requires such person to do or perform any prescribed engineering work or activity,

shall be guilty of an offence and liable to a penalty as stipulated in the Second Schedule of the Regulations.

(2) Where an offence under subsection (1) is committed by a body corporate, every concerned director and manager in the firm shall be deemed to have committed the offence unless such director or

manager proves that the offence was committed without his/her knowledge or consent.

(3) Any person not registered under this Act, who, while in the employment of any other person or any body corporate, knowingly, in the course of such employment, does or performs any prescribed engineering work or activity, shall be guilty of an offence and liable to a penalty as stipulated in the Second Schedule of the Regulations.

Fraudulent entries  
and copies

65. Any person who knowingly and fraudulently makes, or causes, or permits to be made -

(a) any false or incorrect entry in any Register; or

(b) any false or incorrect copy of any entry in any Register, shall be guilty of an offence and liable to a penalty as stipulated in the Second Schedule of the Regulations made under this Act.

Liability of  
partners in a firm

66. Where a firm does any act which if done by an individual would be an offence under this Part of the Act, every partner in that firm shall be deemed to have committed the offence unless he/she proves that the offence was committed without his/her knowledge or consent.

## PART X - MISCELLANEOUS PROVISIONS

Code of Conduct 67. - (1) The Institution shall, by Regulations made under this Act, draw up a Code of Conduct regulating all engineering activities and exercising control over its members.

(2) Failure by any member to conform to the Code shall constitute professional misconduct resulting in such a member being liable to disciplinary action as provided for under the Regulations made under this Act.

Regulations 68. The Minister shall, with guidance from the General Council, from time to time, by regulations, made by notice published in the gazette, prescribe anything which by the provisions of this Act may be prescribed and in respect of which no other prescribing authority is specified, and may, in like manner, from time to time, make Regulations for the better enforcement of this Act, and without prejudice to the generality of the foregoing, such Regulations may make provision for -

(a) the manner of election, removal and replacement of the President, Vice President, other office bearers and members of the General Council, Councils, the

Engineering Registration Board, the Disciplinary Committee and any other committees of the Institution;

(b) the regulation of powers exercisable by the General Council, Councils, the Engineering Registration Board, the Disciplinary Committee, and any other committees of the Institution;

(c) the manner of keeping the accounts of the Institution and the rendering of reports thereon;

(d) the forms of the Registers, books and other records to be kept and maintained for the purposes of this Act;

(e) the forms of applications, notices, licences, certificates and other documents required for the purposes of this Act;

(f) the allowances to be paid to members of the Institution and to members of committees of the Institution in respect of travelling, subsistence, meeting, and other expenses;

- (g) the fees to be paid to the Institution on any application for registration as a registered member;
- (h) the fees to be paid upon the issue of any certificate of registration, or of any certified copy thereof or of any entry in any Register maintained pursuant to this Act;
- (i) the annual fees to be paid to the institution by registered members;
- (j) the fixing of fees for professional services and any other fees deemed requisite for the purposes of this Act;
- (k) the procedures to be followed and rules of conduct to be observed in the proceedings of the Disciplinary Committee; and
- (l) any other matters as may be deemed by the General Council as being necessary for the proper conduct and regulation of the affairs of the Institution.

Repeal and  
savings  
Cap. 53:03

69. - (1) Subject to subsection (2), the Engineers Act (Cap. 53:03) is hereby repealed.

(2) Any subsidiary legislation made under the Engineers Act repealed by subsection (1) in force immediately before the commencement of this Act -

(a) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and

(b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

(3) Anything done in accordance with the Engineers Act prior to the commencement of this Act and which may be done in accordance with the provisions of this Act, shall be deemed to have been done in accordance with this Act.

### **OBJECTS AND REASONS**

The object of this Bill is to repeal the Engineers Act and to make better provisions for the regulation of the Engineering profession in Malawi.

ANTHONY KAMANGA, SC  
Attorney General