

NATIONAL CONSTRUCTION INDUSTRY
(CAP. 53:05)

NATIONAL CONSTRUCTION INDUSTRY (PRACTICE OF
CONSTRUCTION CONSULTANCY SERVICES BY FOREIGN
CONSULTING FIRMS) REGULATIONS

G.N. 26/2004
..35/2023

under s. 29

1. These Regulations may be cited as the National Construction Industry (Practice of Construction Consultancy Services by Foreign Consulting Firms) Regulations. Citation

2. In these Regulations, unless the context otherwise requires— Interpretation

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(a) “Council” means the National Construction Industry Council of Malaŵi established under section 3 of the National Construction Industry Act; and

(b) “member practice” means a Malawian firm registered as a consultant under the Act.

3. A foreign consulting firm intending to provide construction consultancy services in Malawi, shall provide the services in partnership with a member practice.

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construction
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4. A contractual relationship between a foreign consulting firm and a member practice shall, through registration, be approved by the Council as a joint venture.

Approval of
contractual
relationship

5.—(1) The member practice shall take full professional responsibility of the services being provided in conjunction with a foreign consulting firm and shall demonstrate its full participation in, but not limited to, the following work stages—

Member
practice to
participate
fully

(a) for Architects—

- (i) D. Scheme Design;
- (ii) E. Detail Design;
- (iii) F.G. Production Information;
- (iv) J. Project Planning;
- (v) K.L. Operations on site;

(b) for Quantity Surveyors—

- (i) Pre-Contract Services—
 - (A) preliminary consultations, preparing preliminary estimates;
 - (B) preparing bills of quantities, examining tenders and reporting thereon;

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	<p>(ii) Post-Contract services—</p> <p>(A) surveying works in progress and preparing cost reports;</p> <p>(B) preparing and agreeing final accounts;</p> <p>(c) for Structural Engineers, as specified by the Board of Engineers; and</p> <p>(d) for Services Engineers, as specified by the Board of Engineers.</p>
	<p>(2) Where the assignment is full services, the member practice shall be responsible for a minimum of fifty-one per cent of the work.</p>
	<p>(3) Where the assignment is for partial services, the member practice shall demonstrate that it is responsible for a larger per cent for the work in the work stages stipulated in sub-regulation (1) of this regulation.</p>
	<p>(4) The member practice shall have the responsibility of providing evidence to the Council that the foreign consulting firm is a bona fide construction consulting firm allowed to practice in the country, the firm regulatory practices and its principles hold current professional registrations.</p>
Registration G.N 35/2023	<p>6. All foreign consulting firms entering into a contract with a member practice, shall apply, through the member practice, to the Council, an application for registration.</p>
Professional registration insurance	<p>7. The member practice shall be required to lodge with the Council a copy of their policy for professional indemnity insurance cover approved by the client.</p>
Other services	<p>8.—(1) The member practice shall be expected to advise its clients on the need for other required services based on the assignments being undertaken such as architecture, quantity surveying, structural, mechanical and electrical engineering and the need to procure them legally.</p> <p>(2) Where foreign consulting firms are also involved in similar arrangements, the clients shall be advised accordingly.</p>
Failure by member practice to register partnership G.N 35/2023	<p>9. A member practice which provides services in a contractual agreement with a foreign consulting firm that has not been registered by the Council commits an administrative offence and shall, be liable to a penalty of an amount equivalent to one per cent of the total consultancy fees on the project.</p>
Member practice to provide services G.N 35/2023	<p>10.—(1) A member practice which enters into a contractual agreement with a foreign firm but does not provide the agreed services commits an administrative offence and shall be liable to a penalty of an amount equivalent to one per cent of the total consultancy fees on the project.</p> <p>(2) A foreign firm which continues to provide services, without the approval of the Council, where a member practice has ceased to provide the services as stipulated under partnership agreement, commits an offence and</p>

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shall, be liable to a penalty of an amount equivalent to one per cent of the total consultancy fees on the project.