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Act

No. 28 of 2025

I assent

DR. LAZARUS MCCARTHY CHAKWERA

PRESIDENT

20th June, 2025

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An Act to provide for the regulation, promotion and development, of the construction industry in Malawi; for the establishment of the Construction Industry Regulatory Authority of Malawi; for the registration and licensing of firms engaged in the construction industry; for the co-ordination of training of persons engaged in the construction industry; and matters incidental thereto.

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Construction Industry Act, 2025 and shall come into operation on a date appointed by the Minister by notice published in the *Gazette*.

Short title and
commence-
ment

Interpretation

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

“Authority” means the Construction Industry Regulatory Authority of Malawi established under section 4;

“Chairperson” means the Chairperson of the Authority appointed under section 9 (1);

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 17 (1);

“contractor” means a person undertaking construction works whether for a reward or not;

“consultant” means a person providing professional services in the appraising, planning, designing, technical auditing, management and supervision, of construction works;

“construction” means the process of constructing, extending, installing, repairing, maintaining, renewing, removing, renovating, altering, dismantling or demolishing, any—

(a) building, erection, edifice, structure, wall, fence, chimney, whether constructed wholly or partly above or below ground level;

(b) road, harbour works, railways, cableway, canal, aerodrome;

(c) drainage, irrigation, river control works;

(d) electrical, mechanical, water, gas, petrochemical, telecommunication works;

(e) bridge, viaduct, dam, reservoir, earthworks, pipeline, sewer, aqueduct, culvert, drive, shaft, tunnel or reclamation works; and

(f) works which form an integral part of, or are preparatory to, or incidental to, the works described in paragraphs (a) to (e);

“client” means a person that engages a firm or any other person to provide construction services;

“equipment supplier” means a person that supplies equipment to be used in the execution of construction works;

“firm” includes a natural person or a legal person operating as consultant, contractor, material supplier, material manufacturer and equipment supplier;

“foreign firm” means a firm owned by a person or persons who are not Malawian citizens;

“licence” means a licence issued under section 28;

“Malawian firm” means a firm wholly owned by a person or persons who are Malawian citizens;

- “material manufacturer” means a person that transforms raw material components into finished products that are used in the execution of construction works;
- “material supplier” means a person that supplies materials that are used in the execution of construction works;
- “member” in relation to the Authority, means a member of the Authority appointed under section 7; and
- “stop order” means an order issued by the Authority under section 45.
3. This Act shall bind the Government, including any public authority or public enterprise. Application

PART II—CONSTRUCTION INDUSTRY REGULATORY AUTHORITY OF MALAWI

4. There is hereby established an Authority to be known as the Construction Industry Regulatory Authority of Malawi which shall be— Establishment of the Construction Industry Regulatory Authority of Malawi
- (a) a body corporate by that name, having perpetual succession and a common seal; and
- (b) capable of doing or performing all such acts or things a body corporate may by law do or perform.
- 5.—(1) The Authority shall regulate, promote and develop the construction industry in Malawi. Functions of the Authority
- (2) Without derogating from the generality of subsection (1), the Authority shall—
- (a) regulate the construction industry in Malawi;
- (b) monitor the activities of the construction industry in Malawi;
- (c) register and license any firm intending to operate in the construction industry in Malawi;
- (d) prescribe conditions under which Malawian firms and foreign firms, operating in the construction industry in Malawi may be registered and licensed;
- (e) prescribe categories and classes of licensing of firms intending to operate in the construction industry;
- (f) promote and develop the construction industry in Malawi;
- (g) advise the Minister on matters affecting the construction industry;

(h) conduct or facilitate technical audits on any construction project;

(i) collaborate with professional bodies and other relevant bodies in Malawi, on matters affecting the construction industry;

(j) promote use of environmentally sustainable materials and technologies;

(k) conduct or facilitate research on various thematic areas affecting the construction industry;

(l) standardize quality control of construction, processes and construction materials;

(m) standardize contract documentation and procurement processes for the construction industry in collaboration with appropriate authorities;

(n) monitor and evaluate, from time to time, performance, capacity and progress of firms engaged in construction industry;

(o) promote and facilitate the use of alternative dispute resolution mechanism in the construction industry;

(p) register construction projects, including any proposed construction projects;

(q) conduct training, within Malawi and co-ordinate the training conducted by others, in the construction industry; and

(r) generally, do such things as the Authority may deem necessary or expedient to achieve its objects under this Act.

Powers of the
Authority

6. For the better performance of its functions, the Authority shall, subject to the provisions of this Act, have power to—

(a) inspect any construction project and related documentation;

(b) collect fees, levies and any other monies prescribed under this Act;

(c) obtain information relating to the construction industry from any client or firm engaged in the construction industry in Malawi;

(d) obtain and collate all available information concerning existing and proposed projects and advise persons engaged in the construction industry thereon;

(e) exercise disciplinary control over all firms registered and licensed under this Act;

(f) prescribe codes of conduct, codes of ethics, construction codes, codes of practice, procedures and best practice notes for the construction industry;

- (g) prescribe standards for the construction industry;
- (h) establish trust funds or other related instruments for the benefit of the construction industry in Malawi;
- (i) prescribe safety and health standards for the construction industry;
- (j) investigate any violation or potential violation of this Act or any other written law relating to construction, and take such action to redress the violation as it may deem fit, including imposition of administrative penalties;
- (k) issue stop orders or suspend any construction project which contravenes any provision of this Act;
- (l) order the demolition of, or at the cost of the client or owner demolish, any infrastructure that has been constructed in contravention of this Act;
- (m) employ such professional, technical and administrative officers, clerks and other employees as it may deem requisite and lay down conditions of service for such employees;
- (n) develop and maintain construction cost indices; and
- (o) generally, do such things as the Authority may deem necessary or expedient to achieve its objects under this Act.

7.—(1) The Authority shall consist of—

Composition
of the
Authority

(a) the following members appointed by the Minister—

- (i) one architect who is registered with the Board of Architects and Quantity Surveyors;
- (ii) one quantity surveyor who is registered with the Board of Architects and Quantity Surveyors;
- (iii) one engineer who is a member of the Malawi Engineering Institution;
- (iv) one contractor who is a member of a duly registered association of contractors, having the largest membership at the time of the appointment;
- (v) one academician from a higher education institution, with relevant qualifications in engineering or construction industry;

(vi) one chartered accountant who is a member of the Malawi Accountants Board; and

(b) the following *ex-officio* members or their designated representatives—

- (i) the Secretary responsible for public works;
- (ii) the Solicitor General; and

(iii) the Secretary responsible for local government.

(2) A members appointed under subsection (1) (a) shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term.

Disqualifica-
tion from
appointment
to the
Authority

8. A person who—

(a) is declared bankrupt under any written law;

(b) is, declared physically or mentally incapacitated by a suitably qualified medical practitioner;

(c) has, within the period of seven years immediately preceding the date of his or her proposed appointment, convicted and sentenced to any term of imprisonment without the option of a paying fine; or

(d) holds a public office,

shall be disqualified from being appointed as a member of the Authority.

Chairperson
of the
Authority

9.—(1) The Minister shall appoint the Chairperson of the Authority from among the members appointed under section 7 (1) (a).

(2) The office of the Chairperson shall become vacant if—

(a) the holder resigns from his or her position by giving notice, in writing, to the Minister;

(b) the holder vacates his or her office as a member of the Authority; or

(c) more than two thirds of the members of the Authority give the Chairperson a vote of no confidence.

(3) Whenever the Chairperson is absent or is for any reason unable to discharge the functions and duties of his or her office, the members present shall elect amongst their number, a member to discharge the functions and duties of the Chairperson.

Vacation, etc.
of members
from office

10.—(1) The office of a member appointed under section 7 (1) (a), shall become vacant—

(a) on the expiry of the term of office of the member;

(b) upon the member being adjudged bankrupt;

(c) if his or her estate is assigned for the benefit of, or if he or she has made a composition or other arrangement, with creditors;

(d) if the member has been absent from three consecutive meetings of the Authority, of which he or she has had notice, without leave of the Authority;

(e) upon the member becoming mentally or physically ill, where upon a suitably qualified medical practitioner certifies that the member is no longer, by reason of the illness, capable of efficiently performing duties of the office of a member;

(f) has had an administrative penalty imposed upon him or her under this Act by the Authority;

(g) upon the member being convicted of an offence and sentenced to a term of imprisonment without the option of paying a fine;

(h) if the member resigns from office in accordance with subsection (2);

(i) upon the member being removed from a position of trust by a court of law;

(j) if a situation arises that if the member had not been appointed, the member would have been disqualified from appointment as a member; or

(k) upon the death of the member.

(2) A member appointed under section 7 (1) (a), may resign from his or her office by giving notice, in writing, to the Chairperson of the Authority.

(3) The Minister may remove from office a member appointed under section 7 (1) (a), on any of the following grounds—

(a) incompetence in the execution of the functions of the office of the member;

(b) failure to declare a conflict of interest relating to any matter under consideration by the Authority;

(c) disclosure or publication to any other person or entity, other than in the course of duty, of any confidential information of the Authority obtained in the course of duty or otherwise;

(d) misconduct that brings the Authority into disrepute; or

(e) being compromised to the extent that his or her ability to impartially and effectively exercise the duties of his or her office is seriously in question.

11.—(1) Where a member vacates office, the vacancy shall be filled in accordance with section 7 (1) (a).

Filling of
vacancies

(2) Where the remaining period of the term of office of the member is less than six months, the Minister may decide not to fill the vacancy until the expiry of the term.

(3) The period served by a person appointed under this section shall not be regarded as a term for purposes of section 7 (2), unless that period is two years or more.

Invited
persons

12.—(1) The Authority may invite any person to attend a meeting of the Authority or any of its committees, for the purpose of assisting or advising the Authority or any of its committee in respect of any matter under consideration by the Authority or the committee.

(2) The person invited to attend a meeting pursuant to subsection (1) shall take part in the deliberations of the meeting but shall not be entitled to vote.

Meetings of
the Authority

13.—(1) The Authority shall meet for the transaction of its business once every three months, at such places and times as the Chairperson may determine, after consulting with the Chief Executive Officer.

(2) The Chairperson shall convene ordinary meetings of the Authority by giving the members written notice of not less than fourteen days.

(3) The Chairperson may, after consulting with the Chief Executive Officer, convene an extraordinary meeting of the Authority by giving the members written notice of less than fourteen days.

(4) The Chairperson shall, after consulting with the Chief Executive Officer, convene an extraordinary meeting of the Authority, within seven days of receipt of a request, in writing, signed by not less than five members specifying the purpose for which the meeting is to be convened.

(5) A quorum at every meeting of the Authority shall be constituted by five members.

(6) A member of the Authority or a committee of the Authority, other than an *ex-officio* member, shall not attend any meeting of the Authority or a committee of the Authority, as the case may be, by proxy and where such member is unable to attend any meeting, the member may request that his or her apology for failure to attend the meeting be recorded.

(7) The Chairperson shall preside over meetings of the Authority, and in the absence of the Chairperson, the members present and forming a quorum shall elect one of their number to preside over the meeting.

(8) At any meeting, the decision of the Authority on any matter shall be by consensus and, where there is no consensus, the decision

shall be that of a simple majority of the members present and voting at the meeting, and in the event of an equality of votes, the Chairperson or the person presiding, as the case may be, shall have a casting vote, in addition to his deliberative vote.

(9) The Chief Executive Officer or any senior officer designated by the Chief Executive Officer shall serve as secretary of the Authority.

(10) The Authority may make rules for the regulation of its proceedings and business or the proceedings and business of any of its committees.

(11) Where, at any meeting, the deliberations of the Authority or any of its committees concerns the Chief Executive Officer or any other employee of the Authority designated to attend the meeting, the Authority or the committee, as the case may be, may exclude the Chief Executive Officer or the employee concerned from the meeting.

14.—(1) The Authority may establish any number of committees to carry out any special or general functions determined by the Authority and may delegate to the committee any of its functions as the Authority may consider expedient.

Committees
of the
Authority

(2) The chairperson of each committee shall be elected by the Authority from amongst the members of the Authority appointed under section 7 (1) (a).

(3) The chairperson of a committee may, with the approval of the Chairperson convene, at any time and place, a meeting of a committee of which he is chairperson.

(4) Each committee shall keep minutes of its meetings and shall inform the Authority of its proceedings in such manner as the Authority may direct.

(5) The Chief Executive Officer shall serve as secretary at meetings of each committee or may, with the approval of the Chairperson, delegate a senior member of staff to serve as secretary of a committee.

15.—(1) The members of the Authority and members of committees of the Authority shall be paid such allowances as the Minister shall determine, after consulting with the Minister responsible for finance.

Allowances
and expenses

(2) The Authority may reimburse any reasonable expenses incurred in connection with the business of the Authority by a member, a member of a committee of the Authority or a person invited to attend a meeting of the Authority or committee of the Authority pursuant to section 12.

PART III—ADMINISTRATION

Secretariat

16. There shall be a secretariat of the Authority which shall consist of the Chief Executive Officer and other employees of the Authority appointed in accordance with this Act.

Appointment
of the Chief
Executive
Officer

17.—(1) The Authority shall appoint a Chief Executive Officer, who shall, subject to the general direction of the Authority, be responsible for the day-to-day operations of the Authority.

(2) The Chief Executive Officer shall be appointed through a competitive process and on such terms and conditions as the Authority shall determine, after consulting the Government department responsible for human resource management and development.

(3) A person shall not be appointed as Chief Executive Officer, unless the person—

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(a) possesses a minimum qualification of a Master’s degree or its equivalent, from a reputable education institution accredited or recognized under the National Council for Higher Education Act, obtained subsequent to a university degree, obtained from a reputable education institution accredited or recognized under the National Council for Higher Education Act;

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(b) has a record of high integrity, and has proven and shown demonstrable expertise in executive management, administration or in a field relevant to the functions and responsibilities of the Authority;

(c) has not less than ten years’ experience in executive management position; and

(d) does not hold a political office.

(4) The office of the Chief Executive Officer shall be a public office.

(5) The Chief Executive Officer shall hold office for a term of three years and may be eligible for re-appointment for further two terms of three years each based on performance.

Duties and
responsibili-
ties of the
Chief
Executive
Officer

18. Subject to the general and special directions of the Authority, the Chief Executive Officer shall be responsible for—

(a) the day-to-day administration and management of the affairs of the Authority;

(b) the effective management of the funds, property and business of the Authority;

(c) the administration, organization and control of the other employees of the Authority;

(d) the effective administration and implementation of this Act; and

(e) the performance of any other duties and functions as may be assigned to him or her by the Authority.

19.—(1) The Authority may terminate the appointment of a Chief Executive Officer where the Chief Executive Officer—

Removal of
the Chief
Executive
Officer

(a) is incompetent in the execution of the function of his or her office;

(b) is not able to perform the functions of his or her office by reason of physical or mental infirmity;

(c) is declared or adjudged bankrupt by a competent court of law;

(d) is convicted of an offence and sentenced to a term of imprisonment without the option of paying a fine;

(e) commits a misconduct that brings the office of the Chief Executive Officer or Authority into disrepute;

(f) fails to declare a conflict of interest relating to any matter under consideration by his or her office or the Authority; or

(g) is found guilty of a misconduct punishable by dismissal under his or her employment contract.

(2) The Authority shall not remove a Chief Executive Officer from office, unless the Chief Executive Officer is given an opportunity to be heard.

20.—(1) The Authority shall appoint such other professional, technical and administrative officers, subordinate to the Chief Executive Officer, as the Authority may deem necessary, for the due performance of its duties and powers, subject to such terms and conditions as the Authority shall determine.

Other
employees of
the Authority

(2) The Authority may, by directions in writing, delegate to the Chief Executive Officer the appointment, discipline and dismissal of employees in specified junior ranks, and the Chief Executive Officer shall report to the Authority, at its next meeting, every appointment, disciplinary decision or dismissal made pursuant to this subsection.

(3) The employees of the Authority referred to in subsection (1) shall be appointed on such terms and conditions as the Authority shall determine, after consulting the Government department responsible for human resources management and development.

(4) Section 19 shall apply, with the necessary modifications, to the dismissal of employees of the Authority employed pursuant to this section.

PART IV—FINANCIAL PROVISIONS

Funds,
accounts and
audit

21.—(1) The funds of the Authority shall consist of—

(a) such sums as may be appropriated by Parliament for the purposes of the Authority;

(b) any fees and penalties payable under this Act;

(c) such other moneys and assets as may vest in or accrue to the Authority in the course of performing its functions;

(d) the levy imposed under section 22; and

(e) such moneys or other assets as may accrue to, or vest in, the Authority by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or royalties.

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(2) The Authority shall keep proper books of accounts and other records relating thereto in respect of its funds and shall in every respect comply with the provisions of the Public Finance Management Act, the Public Audit Act and the Public Procurement and Disposal of Public Assets Act.

Cap. 37:01

(3) The accounts of the Authority shall be audited annually by independent professional auditors appointed by the Authority in accordance with the Public Audit Act, and the expenses of the audit shall be paid out of the funds of the Authority.

Levy

22. The Authority may, from time to time, by order published in the *Gazette*, impose a levy on any firm or class of firms engaged in the construction industry and on any client and such levy shall be appropriated for the general operations of the Authority.

Financial year
of the
Authority

23. The financial year of the Authority shall be the same as the financial year of the Government.

PART III—REGISTRATION AND LICENSING

Registration
of firms

24.—(1) A firm intending to operate in the construction industry in Malawi, shall apply to the Authority for registration in accordance with this Act.

(2) An application for registration shall be in a prescribed form and shall be accompanied by a prescribed fee.

(3) An application under subsection (2) shall, among other things—

(a) contain the certificate of incorporation or business registration issued by the Registrar of Companies or Registrar of Businesses;

(b) state the names of directors of the firm;

(c) indicate the qualifications of key personnel and their experience; and

(d) indicate the equipment which the firm owns or the capacity of the firm to hire equipment.

(4) The Authority may, within thirty days of receiving the application—

(a) refuse to register the applicant and give reasons for the decision; or

(b) register the applicant and issue a registration certificate in a prescribed form.

(5) The Authority may impose such conditions as it determines necessary on any registration made pursuant to this section.

(6) The Authority shall maintain, in a prescribed form, a register of all registered firms.

25.—(1) A registered firm shall not operate in the construction industry in Malawi, unless it is licensed under this Act

Application for licence

(2) An application for a licence under this Act shall be made to the Authority in a prescribed form and shall be accompanied by a prescribed fee.

26.—(1) A foreign firm awarded a contract through international competitive bidding or selection shall, before commencement of construction works in Malawi, make an application for registration and licensing in accordance with this Act.

Foreign firms

(2) A foreign firm that contravenes subsection (1) commits an offence and shall, upon conviction, be liable, to a fine of K100,000,000.

27. The Authority shall, before licensing a firm under section 25 (2), take into consideration the following—

Consideration of applications

(a) the qualifications and skills of its managerial, professional and technical personnel;

(b) its capital and other financial resources;

(c) in case of a material manufacturer or material supplier, whether the construction material complies with the standards of materials prescribed under the Malaŵi Bureau of Standards Act or any other relevant law;

Cap.51:02

(d) in the case of a natural person, his qualifications and skills and in the case of a body corporate, qualifications and occupation of shareholders and directors; and

(e) any other requirements which the Authority may determine.

Authority to
decide on
licence
applications

28.—(1) The Authority shall, where it is satisfied that a firm has met the licensing requirements under this Act, issue a licence to the firm subject to terms and conditions as the Authority may prescribe.

(2) The Authority may, where it is not satisfied that a firm has met the licensing requirements under this Act, refuse the application and give reasons for the decision.

(3) The Authority shall communicate a decision made under subsections (1) and (2) to the firm within fourteen days of the decision.

Validity and
renewal of
licence

29.—(1) The licence issued under section 28 (1) shall be valid for one Government financial year.

(2) A firm licensed under this Act shall, at the end of each financial year, pay to the Authority prescribed licence fees for renewal of the licence in respect of the subsequent financial year.

(3) A firm licensed under this Act shall, upon expiry of its licence, not operate in the construction industry before renewal of the licence.

(4) A firm which contravenes the provisions of subsection (3) shall be liable to an administrative penalty.

Cancellation
or suspension
of a licence

30.—(1) The Authority may suspend or cancel the licence of a firm if the firm—

(a) obtained the licence through fraud, misrepresentation or concealment of a material fact;

(b) fails to comply with any term or condition of the licence;

(c) operates the registered business activity in contravention of this Act or any other relevant written law, codes of ethics or practice; and

(d) is found guilty of professional misconduct.

(2) Where a sole proprietor of a firm dies, the Authority shall revoke the licence of the proprietor.

Deregistration
of registered
firms

31.—(1) The Authority may deregister any firm registered under this Act where—

(a) the firm fails to comply with any provision of this Act or any condition of registration imposed under section 24 (5);

(b) the firm has not renewed its licence for a period of three consecutive years; or

(c) directors of the firm are convicted of an offence under this Act.

(2) The Authority shall communicate a decision made under subsection (1) to the firm within fourteen days of the decision.

(3) Where a sole proprietor of a registered firm dies, the Authority shall revoke the registration and strike off the name of the firm from the register.

(4) Subject to subsection (3), the administrator of the deceased estate of the person who was the sole proprietor of the firm or next of kin of the deceased proprietor shall, within sixty days of the date of the occurrence of the death, apply to the Authority for approval of the continuation of the registration for purposes of completing an on-going project.

(5) Where a sole proprietor of a firm is declared bankrupt under any written law, the Authority shall revoke its registration and strike off the name of the firm from the register.

(6) Where a registered firm, being a body corporate, is declared insolvent, wound up or dissolved, under any written law the Authority shall revoke the registration of the firm.

(7) An application under subsection (4) shall be made within fourteen days after death of the sole proprietor.

(8) The Authority shall grant approval under subsection (4) where it is satisfied that the applicant has capacity to comply with the terms and conditions of the initial registration.

32.—(1) The Authority may register a firm deregistered under section 31, after the expiry of seven years from the date of deregistration. Restoration to the register

(2) An application for re-registration shall be made in accordance with section 24.

33.—(1) A client or any other person shall not engage a firm which is not licensed under this Act. Prohibition of engaging firms not licensed

(2) The Authority shall prescribe the nature and thresholds of work, goods or services applicable in relation to subsection (1).

34.—(1) A licence issued by the Authority authorizes only the firm named in the licence and not any other firm, to conduct the business which the licence authorizes it to do. Licence only for firm named therein

(2) A firm which allows another firm to use its licence shall be liable to an administrative penalty.

(3) A firm which operates on the basis of a licence of another firm shall be liable to an administrative penalty.

Authority to maintain a register

35.—(1) The Authority shall keep and maintain, in the appropriate prescribed form, a register of firms engaged in the construction industry.

(2) The register shall be in the custody of the Chief Executive Officer.

(3) The Authority shall, once in every year before the 30th of June, publish in the *Gazette*, the names of all firms registered under this Act.

Prohibition against giving false or misleading information

36.—(1) A person in a firm registered under this Act shall not—

(a) make any statement or give information;

(b) produce or give a document; or

(c) authorize or permit another person to make a statement or give information or a document,

to the Authority in connexion to his application for a licence under this Act, if he or she knows or ought to reasonably know that the statement, information or document is false or misleading, including by omission.

(2) A person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K20,000,000 and to imprisonment for two years.

Licence for profession, category or class

37.—(1) A firm licensed under this Act shall only operate in a profession, category or class in respect of which it is licensed.

(2) An employee of any firm licensed under this Act shall not be deemed to operate within the meaning of subsection (1) by reason only of his or her performance of his or her functions as an employee.

(3) A licensed firm which performs work in a class, category or profession in respect of which it is not licensed shall be liable to an administrative penalty.

PART VI—DUTIES OF CLIENTS AND LICENSED FIRMS

Licensed firms to pay fees and levies

38.—(1) A firm licensed under this Act shall pay to the Authority such fees or levies as may be prescribed from time to time.

(2) Where a firm fails to pay any fees or levies prescribed under this section, the Authority may order the firm to pay such fees or

levies with interest, calculated at the lending rate prescribed by the Reserve Bank of Malawi.

(3) Where a firm fails to pay any such fees or levies under this section, within a period of thirty days from the date of the receipt of a written demand, the amount may be recoverable by the Authority as a civil debt.

(4) Notwithstanding subsections (2) and (3), the Authority may impose any administrative penalty on any firm that fails to pay the fees or levies prescribed under this section.

39. The Authority shall, in consultation with an appropriate authority, ensure that a manufacturer or supplier of construction materials complies with the standards set for construction materials under any written law.

Construction standards

40.—(1) A material manufacturer or material supplier licensed under this Act shall not manufacture, supply or sell construction materials that do not conform with the standards prescribed under this Act, the Malawi Bureau of Standards Act or any other written law.

Compliance with the construction standards
Cap.51:02

(2) A firm licensed under this Act shall not use construction materials that do not conform to the standards referred to under subsection (1).

(3) A firm licensed under this Act that contravenes this section commits an offence and shall be liable to an administrative penalty.

41.—(1) A client shall, before commencement, during execution and upon completion, of a project—

Duties of clients

(a) obtain all necessary permits from the appropriate authorities;

(b) engage services of a firm licensed under this Act;

(c) use drawings and designs that are certified by a licensed consultant;

(d) ensure that the construction project has been registered with the Authority, in a manner as may be prescribed by the Authority; and

(e) ensure that the project complies with the minimum technical specifications, quality, regulations and policies relating to construction works and environmental protection.

(2) The Authority shall, subject to compliance with paragraphs (a) and (d), of subsection (1), issue a construction permit authorizing the client to commence construction.

(3) A client shall, for each construction project, engage a licensed contractor and a licensed consultant.

(4) A client that engages in construction works without a construction permit issued in accordance with this Act commits an offence and shall be liable to a fine of equal to two and half percent of the value of the contract sum.

(5) A client that contravenes subsection (3) commits an offence and shall, upon conviction, be liable to a fine of K100,000,000.

Retention Fund

42.—(1) The Authority shall establish a retention fund for purposes of keeping retention money due to a contractor on a construction project.

(2) A client shall remit to the fund retention money due to a contractor on a construction project, on every certificate, where retention money was withheld.

(3) The Authority shall appoint a fund manager who shall be responsible for the management of the retention fund.

Licensed firms and clients to provide information, documents, etc

43.—(1) A firm licensed under this Act or the client, as the case may be, shall submit or produce to the Authority, such information or document or any other thing relating to an existing or proposed project or contract being undertaken by the firm or client, as may be required by the Authority.

(2) The firm licensed under this Act shall ensure that it acts in a transparent and accountable manner, during all the stages of a project life cycle, including pre-contract and post-contract processes.

(3) The Authority may, by notice in writing, require a firm to provide information, produce a book, document or other record, in its custody or control, within a period specified in the notice, with respect to an act, transaction, matter or thing to which the provisions of this Act applies.

(4) A firm or client that contravenes any provision of this section shall be liable to an administrative penalty.

PART VII—INSPECTION

Inspections

44.—(1) The Authority may conduct, or cause to be conducted, inspections of premises of firms, any construction project or site and related documentation.

(2) The Authority shall issue identification cards to its officers, which the officers shall produce, on demand, to any interested person, when carrying out any function under this Act.

(3) An officer of the Authority shall, for the purpose of administering, monitoring and enforcing the provision of this Act, have powers to enter, inspect and examine, with or without prior notice, at all reasonable times, any construction project site, including premise of firms.

(4) A person who, without lawful authority—

(a) fails to permit or refuses entry to an officer of the Authority to any construction project site or premises of firm;

(b) fails to comply with an order, direction or requirement of the Authority made under this Act;

(c) fails to produce any document required by an officer of the Authority or refuses access to any such document;

(d) withholds any information required by an officer of the Authority;

(e) conceals or prevents, or attempts to conceal or prevent, a person from appearing before or being interviewed by an officer of the Authority; or

(f) in any manner whatsoever obstructs an officer of the Authority in the execution of the duties of the officer under this Act,

commits an offence and shall, upon conviction, be liable to a fine of K20,000,000 and to imprisonment for two years.

45.—(1) The Authority may issue a stop order to a firm, client or any other person, on any construction project, that does not comply with the provisions of this Act. Stop order

(2) Where the Authority has issued the stop order pursuant to subsection (1), the firm, client, or person to whom the stop order is issued shall take the necessary corrective measures as specified in the order.

(3) A firm or client that fails to comply with the stop order shall be liable to an administrative penalty.

(4) A firm or client that fails to comply with an administrative penalty imposed pursuant to subsection (3) commits an offence and shall, upon conviction be liable to a fine of K40,000,000 and to imprisonment of four years, and in case of a continuing offence to a

further fine of K100,000 for each day during which the offence continues.

(5) A person other than a client or firm who does not comply with a stop order issued under subsection (1) commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment of four years, and in case of a continuing offence to a further fine of K100,000 for each day during which the offence continues.

(6) The Authority shall lift the stop order where the firm or client has fully complied with the conditions prescribed in the order.

PART VIII—OFFENCES AND PENALTIES

Operating
without
licence

46. A firm that operates in the construction industry without a licence commits an offence and shall, upon conviction, be liable to a fine of K100,000,000.

Prohibition
for holding
out

47. A firm which—

(a) not being licensed under this Act holds itself out as so licensed; or

(b) causes or permits another person or firm to do anything referred to in paragraph (a),

commits an offence and shall, upon conviction, be liable to a fine of K100,000,000.

Procuring a
licence by
fraud, false
representation
or
concealment

48. A person who procures, or attempts to procure, a licence under this Act, by fraud, false representation or the concealment of a material fact, commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment for four years.

Forgery of a
licence

49. A person who forges or falsifies a licence or other document issued under this Act, commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment for four years.

Impersona-
tion

50. A person who impersonates a licensed firm while not registered under this Act, commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment for four years.

Falsification
of register or
a licence

51. A person who makes or causes to be made an unauthorized entry, alteration or erasure in a register under this Act, or a certified copy of an entry in that register or a licence issued under this Act,

commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment for four years.

52. A person who—

Prohibition of
engaging
unlicensed
firm

(a) undertakes construction works for, or is subcontracted by, a firm that is not licensed under this Act;

(b) subcontracts any construction work to a firm that is not licensed under this Act; or

(c) awards a construction contract to a firm that is not licensed under this Act,

commits an offence and shall, upon conviction, be liable to a fine of K40,000,000 and to imprisonment for four years.

53.—(1) A person convicted of an offence under this Act, for which a penalty has not been specified, shall be liable to a fine of K40,000,000 and to imprisonment for four years.

General
penalty

(2) Where a body corporate is convicted of an offence under this Act, the court may, if it considers it fit, impose a pecuniary penalty not exceeding an amount equal to five times the amount of the fine that could have been imposed by the court on an individual convicted of the same offence.

(3) Where a body corporate is convicted of an offence under this Act, the director or agent of the body corporate shall also be deemed to have committed the same offence, unless he or she proves that the offence was committed without his or her knowledge or took reasonable precaution and exercised due diligence to avoid the commission of the offence.

(4) Subject to subsection (3), where a body corporate is convicted of an offence under this Act, shall be liable to a fine of K40,000,000 and imprisonment for four years.

54.—(1) Where the Authority is satisfied, on reasonable grounds, that a person or firm has contravened this Act, the Authority may impose an administrative penalty on the person or firm by doing one or more of the following—

Administra-
tive penalties

(a) issuing a written warning;

(b) directing the person or firm to do a specified act, or refrain from doing a specified act;

(c) directing the person or firm to remedy the effects of the contravention;

(d) ordering the demolition of a building, structure or infrastructure constructed in contravention of this Act;

(e) directing the person or firm to compensate person or entity that has suffered loss as a result of the contravention;

(f) ordering the person or firm to pay a monetary penalty, not exceeding K30,000,000;

(g) suspending or revoking of a licence; or

(h) imposing any other penalty as the Authority may deem appropriate.

(2) Where the Authority has revoked a licence of a firm, the Authority shall strike off the name of the firm from the register.

(3) A person that fails or refuses to comply with the administrative penalty commits an offence and upon conviction, shall be liable to a fine of K100,000,000 and to imprisonment of seven years.

(4) A person that fails to pay a monetary penalty imposed under this Act within a period of thirty days from the date of the first demand, in writing, the amount in respect of the monetary penalty may be recoverable by the Authority as a civil debt.

Disclosure of
interest

PART IX—MISCELLANEOUS

55.—(1) A member of the Authority or committee of the Authority, a person invited to attend a meeting of the Authority or any of its committees or an employee of the Authority who has a direct or indirect interest in any matter before the Authority or any of its committees, as the case may be, shall disclose the interest, as soon as is practicable, before or soon after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a person fails to disclose interest in accordance with subsection (1) and the Authority or committee of the Authority makes a decision which benefits that person, a close relative, professional or business partner of that person, the decision shall, to the extent that it benefits that person, the close relative, professional or business partner, be null and void.

(4) For purposes of this section, “close relative” means spouse, brother, sister, parent, child, child of the spouse and the spouse of any of these relations.

56.—(1) An organization, agency, department, institution or non-governmental organization that participates in coordination of construction related activities or is involved in the development of the scope of work, solicitation of documents, contractual instruments or technical specifications shall not participate as a contractor or consultant to perform any work on that particular project or on any other project that would constitute an organizational conflict of interest or would give other contractors or consultants an unfair advantage over other bidders on that project.

Conflict of
interest

(2) A person employed in the public service shall not tender for, or be awarded, a public contract which is directly connected with that person's employment.

57. A court action or other proceeding shall not be brought personally against any member of the Authority or a committee of the Authority or employee of the Authority in respect of any act or omission done in good faith in the course of carrying out the provisions of this Act.

Protection
from liability

58.—(1) Subject to this section, the common seal of the Authority shall be kept by the Chief Executive Officer and shall not be used, except in the manner authorized by the Authority.

Common seal

(2) All deeds, instruments, contracts and other documents shall be considered to be duly executed by, or on behalf of, the Authority—

(a) where they are required to be under seal, if sealed with the common seal and authenticated by the Chairperson or any other member nominated in that behalf by the Authority and the Chief Executive Officer or any other officer authorized by the Authority; or

(b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Authority for that purpose.

(3) A deed, instrument, contract or any other document executed in accordance with subsection (2) shall, in law, bind the Authority, its assignees and its successors and may be varied or discharged in the same manner that it was executed.

(4) All courts and other persons acting in a judicial capacity shall take judicial notice of the common seal of the Authority affixed to any document and shall presume, unless otherwise proven, that it was duly affixed.

59.—(1) The Authority shall prepare and submit to the Minister, within three months after the end of each financial year, an annual report on the general conduct of the affairs of the Authority and the activities carried out during that financial year.

Annual
reports

(2) The report submitted under subsection (1) shall be in the format prescribed by the Minister and there shall be appended to the report—

(a) an audited statement of financial position;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may consider appropriate.

(3) The Minister shall, as soon as practicable, but not later than six months after the end of the financial year, lay before Parliament a copy of the annual report of the Authority.

Research and
development

60. The Authority may, in collaboration with professional boards, higher education institutions and other appropriate authorities, carry out research and development to ensure the quality of construction works and construction materials.

Regulations

61.—(1) The Minister may, on the recommendation of the Authority, make regulations for better carrying out or giving effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

(a) prescribe the fees and penalties payable under this Act;

(b) prescribe the forms, standardized contract documents and procurement processes required to be prescribed under this Act;

(c) make provision for the licensing, control and regulation of Malawian firms and foreign firms, operating in the construction industry;

(d) make provision for the regulation of any activity in the construction industry;

(e) make provision for matters concerning research and development;

(f) make provision for the regulation of subcontracting and joint ventures; and

(g) prescribe any other matter deemed as necessary for the proper implementation and enforcement of this Act.

Cap.1:01

(3) Notwithstanding the provisions of section 21 (e) of the General Interpretation Act, the regulations may create offences in respect of any contravention, and may for any such contravention impose a fine not exceeding K5,000,000 and imprisonment not exceeding two years.

62. The Authority may, by notice published in the *Gazette*, prescribe—

Rules, codes
of conduct,
etc

- (a) rules for the conduct of disciplinary hearing and enquiries under this Act;
- (b) rules for the establishment and operation of trust funds;
- (c) rules for the proper implementation of this Act;
- (d) rules for inspections conducted under this Act;
- (e) codes of conduct for firms licensed under this Act;
- (f) standard contract documentation to be used in the construction industry;
- (g) codes of ethics for firms licensed under the Act;
- (h) codes of practice for the construction industry;
- (i) requirements for capacity building interventions and promotion of Malawian firms;
- (j) health and safety standards;
- (k) infrastructure delivery and management standards;
- (l) building and construction standards;
- (m) building and construction codes;
- (n) cost indices for the construction industry;
- (o) best practice notes; and
- (p) any other matter deemed as necessary for the proper implementation and enforcement of this Act.

63.—(1) The National Construction Industry Act is repealed.

Repeal and
savings
Cap. 53:05

(2) Any subsidiary legislation made under the Act repealed under 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 Act repealed under subsection (1), 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.

(4) Any licence issued, registration made or permission granted in accordance with the Act repealed under subsection (1) shall, unless

otherwise expressly provided for in this Act or in any other written law, continue to be in force and be deemed to have been issued or granted by the Authority or the Minister, as the case may be, under this Act.

Transfer of
assets and
liabilities

64. Property, assets, funds, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by, or on behalf of the Council under the Act repealed under section 63 (1), shall, on the commencement of this Act, be deemed to have vested in, or to have been acquired, incurred or entered into by, or on behalf of, the Authority and shall become enforceable by, or against, the Authority to the same extent as they were enforceable by, or against, the Council.

Transfer of
employees

65. Unless the Authority otherwise determines, all persons who, immediately before the commencement of this Act, were employed by the Council under the Act repealed under section 63 (1) shall, on the commencement of this Act, be deemed to have been transferred to the employment of the Authority, on terms and conditions of service not less favourable than their previous terms and conditions of service and, for the purpose of determining their rights hereunder, their services shall be regarded as being continuous from the time they were employed by the Council.

Passed in Parliament this eighth day of April, two thousand and twenty-five.

FIONA KALEMBA
Clerk of Parliament