

Malawi

Engineers Act

Chapter 53:03

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Engineers Act

Contents

Part I – Preliminary	1
1. Short title	1
2. Interpretation	1
Part II – Administration	2
A. Board of Engineers	2
3. Establishment of Board of Engineers	2
4. Composition of the Board	2
5. Disqualifications	3
6. Tenure of office of members of Board, and vacancies thereon	3
7. Remuneration of members of Board	4
8. Secretary /Registrar	4
9. Meetings of the Board	4
10. Committees of the Board	5
B. Powers and objects of the Board	5
11. Powers of the Board	5
12. Objects and duties of the Board	6
13. Prescribed practice of engineering	7
Part III – Financial and accountancy provisions	7
14. Funds of the Board	7
15. Investment powers	7
16. Borrowing powers	8
17. Annual budgets	8
18. Books, accounts, audits and reports	8
Part IV – Registration	8
19. Registers	8
20. Engineers must be registered	9
21. Applications to the Board	9
22. Registration as Registered Engineer	9
23. Registration as a Graduate Engineer	10
23A. Registration as a Technician Engineer	11
23B. Registration as an Engineering Technician	11
24. Engineering Qualifying Examination	12
25. Registration of public officers as Registered Engineers	12
26. Registration of Selected Registered Engineers	13

27. Certificate of registration	13
28. Correction of Registers	13
Part V – Disciplinary Provisions	13
29. Disciplinary committee	13
30. Powers of inquiry of disciplinary committee	14
31. Inquiry by disciplinary committee	14
32. Disqualification of member of disciplinary committee	15
33. Report to Board by disciplinary committee	15
34. Decision of Board; reprimand, suspension and cancellation of registration; appeal to High Court	16
Part VI – Miscellaneous	18
35. Use of title	18
36. Execution of certificates and other documents	18
37. Regulations	18
Part VII – Offences	19
38. Unlawful practice of engineering	19
39. Unlawful use of descriptions	19
40. Unlawful employment of non-registered persons	19
41. Fraudulent entries and copies	20

Malawi

Engineers Act

Chapter 53:03

Assented to on 9 December 1972

Commenced on 1 March 1974

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

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 Board of Engineers, a body corporate, as the qualifying, registering and disciplinary authority of such profession; to amend the Professional Qualifications Act and the Consultants and Contractors Act; to repeal the Registered Engineers Act; and to provide for matters connected therewith and incidental thereto

Part I – Preliminary

1. Short title

This Act may be cited as the Engineers Act.

2. Interpretation

In this Act, save where the context otherwise requires—

“**approved institution**” means any university, institute, college or school of engineering or other educational institution approved by the Board pursuant to [section 12](#) (d);

“**Board**” means the Board of Engineers established by [section 3](#);

“**Chairman**” means the Chairman of the Board designated by the Minister pursuant to [section 4](#) (3);

“**Current Register**” means that Part of the Register of Registered Engineers designated as such in [section 19](#) (6) (b);

[9 of 1988]

“**disciplinary committee**” means the disciplinary committee of the Board constituted in accordance with [section 29](#);

“**engineering**” means the doing or performing of any prescribed engineering work or activity constituting the practice of engineering under [section 13](#) 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;

“**financial year**” means the period commencing on the date of commencement and ending on the following 31st March, and thereafter the period of twelve months ending on the 31st March each year;

“**Graduate Engineer**” means any person registered as such in the Register of Graduate Engineers, pursuant to [section 23](#);

“**Main Register**” means that Part of the Register of Registered Engineers designated as such in [section 19](#) (6) (a);

[9 of 1988]

“prescribed engineering work or activity” means any engineering work or activity prescribed as the practice of engineering pursuant to [section 13](#) 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;

“Register” means the Register of Engineers, or the Register of Graduate Engineers or the Register of Selected Registered Engineers, or Register of Technician Engineers or Register of Engineering Technicians as the case may be, maintained by the Board pursuant to [section 19](#);

“Registered Engineer” means any person registered as such in the Register of Engineers;

“Registered Engineering Technician” means any person registered as such in the Register of Engineering Technicians pursuant to [section 23B](#);

[9 of 1988]

“Registered Technician Engineer” means any person registered as such in the Register of Technician Engineers pursuant to [section 23A](#);

[9 of 1988]

“Registrar” means the Secretary to the Board, designated Registrar by [section 8](#) (2);

“rule” means any rule prescribed by the Board under this Act;

“Secretary” means the Secretary to the Board designated by the Minister pursuant to [section 8](#)(1);

“Selected Registered Engineer” means any Registered Engineer registered as a Selected Registered Engineer pursuant to [section 26](#);

“Vice-Chairman” means the Vice-Chairman of the Board designated by the Minister pursuant to [section 4](#) (3).

[39 of 1981]

Part II – Administration

A. Board of Engineers

3. Establishment of Board of Engineers

- (1) There is hereby established a board under the name of the Board of Engineers (hereinafter referred to as the Board) 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.
- (2) The common seal of the Board shall be authenticated by the signatures of the Chairman, or of the person for the time being performing the functions of Chairman, and of one other member of the Board designated by the Board 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.
- (3) The Board may use a wafer or rubber stamp in lieu of an embossed seal until such time as an embossed seal is procured by the said Board.

4. Composition of the Board

- (1) The Board shall consist of the following members—
 - (a) the public officer for the time being holding, or acting in, the post of Engineer-in-Chief;

- (b) an officer in the public service, who is a Registered Engineer and a resident of Malawi, appointed by the Minister;
 - (c) two persons appointed by the Minister from a panel of not less than five Registered Engineers nominated by the Malawi Group of Professional Engineers;
 - (d) one person appointed by the Minister from a panel, nominated by the University of Malawi, consisting of not less than three persons actively engaged on the staff of the said University as professors or lecturers in engineering or scientific subjects; and
 - (e) one other person appointed by the Minister.
- (2) The Minister may appoint to the Board such other persons not exceeding three in number, as he deems qualified to assist the Board in its work and deliberations.
- (3) The Minister shall designate the Chairman and the Vice-Chairman, respectively, of the Board from among the members thereof appointed by, or in pursuance of, subsection (1).
- (4) Members of the Board shall not, by virtue only of their appointment to the Board, be deemed to be officers in the public service.

[13 of 1974]

[39 of 1981]

5. Disqualifications

Any person who—

- (a) is an undischarged bankrupt;
 - (b) has been convicted, at any time, of an offence under this Act, or under any written law which is repealed or replaced by this Act;
 - (c) has, within three years last past, for an offence under any written law, been sentenced to a term of imprisonment of not less than six months save as an alternative to, or in default of, the payment of a fine;
 - (d) has been convicted, within six years last past, of an offence involving fraud or dishonesty,
- shall be disqualified from being appointed to, or from continuing to hold office as a member of, the Board.

6. Tenure of office of members of Board, and vacancies thereon

- (1) Subject to subsection (4), any person who is appointed a member of the Board in pursuance of [section 4](#) (1) (b), (c), (d) or (e) shall hold office for such period not exceeding three years as may be specified in the instrument of his appointment.
- (2) Any retiring member of the Board, other than a member who is disqualified under [section 5](#), shall be eligible for re-appointment.
- (3) Upon expiry of the period for which a member is appointed he shall continue to hold office until his successor has been appointed, but in no case shall such further period exceed three months.
- (4) The office of a member of the Board, who is not a member thereof *ex officio*, shall be vacated—
 - (a) upon his death;
 - (b) if he is absent from three consecutive meetings of the Board without the permission of the Board or of the Minister;
 - (c) upon the expiry of one month's notice in writing of his intention to resign given by him to the Minister and to the Board;

- (d) upon his dismissal from the Board by the Minister by notice in writing;
 - (e) if he becomes mentally or physically unfit, and the Minister and the Board are of opinion that he is no longer, by reason of such unfitness, capable of performing his duties as a member of the Board; and
 - (f) if he becomes disqualified for membership of the Board under [section 5](#).
- (5) An *ex officio* member of the Board shall continue as such for so long as he holds the office by virtue of which membership of the Board is ordained by this Act.

7. Remuneration of members of Board

Any member of the Board who is not an officer in the public service shall be paid out of the funds of the Board such remuneration and allowances, if any, as may be prescribed.

8. Secretary /Registrar

- (1) There shall be a Secretary to the Board who shall be an officer in the public service and shall be designated as Secretary by the Minister.
- (2) The Secretary to the Board shall be the Registrar for all of the purposes of this Act.
- (3) The Secretary shall be the chief executive officer of the Board and as such shall be responsible to the Board for the administration and management of its affairs, and shall be in charge of all administrative, executive and other staff of the Board, and, in all such matters, shall, at all times, be subject to the direction and control of the Board.
- (4) The Secretary shall exercise such powers and perform such duties as the Board may, after consultation with the Minister, delegate to him in writing from time to time, and in any such delegation the Board may impose such conditions as to the exercise of such powers or the performance of such duties as the Board deems fit.
- (5) The Secretary may, with the approval of the Board, employ such temporary or part-time staff as he deems necessary for the time being efficiently to effect the objects of the Board.
- (6) The Board shall be liable for all salaries and other expenses incurred in relation to persons employed under subsection (5).

9. Meetings of the Board

- (1) The Board may meet at such places and times as the Chairman may determine, or as he may be directed by the Minister, and such meetings shall be convened by the Chairman or by the Minister.
- (2) In the absence of the Chairman from any meeting of the Board, the Vice-Chairman shall preside, and in the absence of both the Chairman and the Vice-Chairman from any such meeting, the members present, if constituting a quorum, shall elect one of their number to preside at that meeting.
- (3) The Board shall conduct its meetings in such manner as may be directed by the Minister, or, in the absence of such direction, in such manner as the Board deems meet.
- (4) Three members of the Board shall constitute a quorum.
- (5) At all meetings of the Board the person presiding shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.
- (6) Minutes of each meeting shall be kept by the Secretary and shall be confirmed at the succeeding meeting by the Chairman, Vice-Chairman or other member presiding, as the case may be.

10. Committees of the Board

- (1) The Board may, with the consent of the Minister, establish one or more committees to carry out any special or general functions determined by the Board and may delegate to any such committee such of the functions of the Board as it may deem expedient.
- (2) The Chairman of the Board shall, by reason of his office, be a member of each committee established pursuant to subsection (1).
- (3) The chairman of each committee established pursuant to subsection (1) shall be appointed by the Board from amongst the members of the Board.
- (4) Each committee may, with the consent of the Board and the approval of the Minister previously obtained, co-opt as members of such committee persons who are not members of the Board and who are not disqualified for such membership, and any of such members so co-opted may or may not be officers in the public service.
- (5) The chairman of each committee may, at any time and at any place, convene a meeting of the committee of which he is chairman.
- (6) The Board may, at any time, direct the chairman of any committee to convene a meeting of such committee and such chairman shall, as soon as is practicable, comply, with such direction.
- (7) Every committee established pursuant to subsection (1) shall keep minutes of its meetings and shall inform the Board of its activities and conduct its proceedings in such manner as the Board may direct.
- (8) The Minister may, in writing, nominate any officer in the public service to attend any meeting or meetings of any committee established pursuant to subsection (1), which officer may take part in the proceedings of any such meeting as if he were a member of such committee, save that he shall not be entitled to vote thereat.
- (9) Any member of a committee established pursuant to subsection (1), who is not an officer in the public service, shall, in respect of expenses incurred by him in travelling and subsistence while discharging his duties as such member, be paid out of the funds of the Board, such allowances as may be prescribed.

B. Powers and objects of the Board

11. Powers of the Board

The Board shall be the sole qualifying and registering authority of the engineering profession in Malawi and shall have the following powers—

- (a) to register engineers, technician engineers and engineering technicians pursuant to this Act;
- (b) to establish educational standards and qualifications for the engineering profession in Malawi;
- (c) to exercise disciplinary control over the engineering profession in Malawi;
- (d) to purchase, lease, or otherwise acquire any property, real or personal, for or in connexion with the exercise of any of its powers or objects;
- (e) to manage, insure, let, sell, alienate, mortgage or otherwise deal with any property of the Board as it may deem necessary or expedient;
- (f) to do or perform any act necessary to or directed towards the furtherance of its objects as declared by [section 12](#);

- (g) 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;
- (h) to do or perform any act or thing prescribed by this Act to be done or performed by the Board;
- (i) subject to the approval of the Minister, to employ administrative or executive staff or other servants or agents for the better administration of the affairs of the Board, and to make provision for the salaries, wages, commissions and other conditions of service of such persons, including pensions, gratuities and other superannuation benefits; and
- (j) subject to the approval of the Minister, to make advances to employees of the Board for the purchase of motor or other vehicles by such employees, on terms and conditions as to the use of such vehicles and as to the repayment of such advances as the Minister may, from time to time, require.

[9 of 1988]

12. Objects and duties of the Board

The objects and duties of the Board shall be—

- (a) to maintain a Register of all persons who are entitled to practise engineering in Malawi as Registered Engineers under this Act;
- (b) to maintain a Register of all persons entitled to practise engineering in Malawi as Graduate Engineers under this Act;
- (c) to maintain a Register of Selected Registered Engineers who are deemed by the Board to be qualified to supervise the postgraduate training of Graduate Engineers in Malawi, as required from time to time, by the Board under this Act;
- (d) to approve universities, institutions, colleges or schools of engineering or other such educational institutions within or outside Malawi, as approved institutions whose training in engineering will be acceptable training for the purposes of this Act;
- (e) to prescribe, from time to time, by rules, made with the prior approval of the Minister, syllabuses of subjects for examinations to be set and held by the Board;
- (f) to set and hold, from time to time, such examinations, oral or written, as the Board deems necessary for the purposes of this Act;
- (g) to set and hold, from time to time, qualifying examinations for admission to the engineering profession in Malawi and for registration under this Act;
- (h) to issue certificates in the name and under the seal of the Board to candidates who are successful at examinations conducted by the Board for the purposes of this Act;
- (i) to prescribe, from time to time, by rule, made with the prior approval of the Minister, fees to be paid to the Board in respect of examinations held or prescribed by the Board for the purposes of this Act;
- (j) 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;
- (k) to prescribe, from time to time, by rule, principles of conduct and ethics to be followed by persons registered under this Act, in Malawi, in the course of their practice as engineers, and further to provide for disciplinary measures and penalties to be taken and enforced by the Board for any infringement or any such prescribed principles;
- (l) 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 said maximum levels of engineering responsibility may be determined by the Board by 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 engineer; the knowledge and experience reasonably required of such engineer efficiently to exercise such control.

[8 of 1980]

- (m) with the approval of the Minister, 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.
- (n) to maintain a Register of all persons entitled to practise engineering in Malawi as Technician Engineers under this Act; and
- (o) to maintain a Register of all persons entitled to practise engineering in Malawi as Engineering Technicians under this Act.

[39 of 1981]

[9 of 1988]

13. Prescribed practice of engineering

- (1) The Board may, from time to time, with the prior written approval of the Minister, prescribe, by notice published in the *Gazette* such engineering work or activity as may, in Malawi, be done or performed solely and exclusively by a person registered under this Act.
- (2) The doing or performance of any work or activity prescribed pursuant to subsection (1), and of any other work or activity required by or under any other written law to be done or performed by a person registered under this Act, shall be deemed to be the practice of engineering for the purposes of this Act.
- (3) The Board may, with the prior written approval of the Minister, specify, by notice published in the *Gazette*, certain persons or classes of persons in any particular engineering disciplines, occupations or employment who, although not registered under this Act, may, notwithstanding the provisions of subsection (1) or of any other written law, do or perform any work or activity deemed by subsection (2) to be the practice of engineering for the purposes of this Act.

[8 of 1980]

Part III – Financial and accountancy provisions

14. Funds of the Board

The funds of the Board shall consist of—

- (a) such sums as may be payable to the Board from moneys appropriated by Parliament for the purpose;
- (b) such moneys or other property as may be payable to or vest in the Board whether in the course of the exercise of its powers or functions or otherwise; and
- (c) such moneys or other property as may be payable to or vest in the Board pursuant to this or any other written law or pursuant to any trust or gift.

15. Investment powers

The Board shall have power to invest any moneys which are not immediately required for its objects.

16. Borrowing powers

Subject to the provisions of section 32 (1) of the Finance and Audit Act, the Board 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.

[Cap. 37:01]

17. Annual budgets

The Board shall, in relation to each financial year, submit to the Minister both a capital and an income and expenditure budget pursuant to sections 32B and 32C of the Finance and Audit Act.

[Cap. 37:01]

18. Books, accounts, audits and reports

- (1) The Board shall cause to be kept proper books of account 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 Board.
- (2) The accounts of the Board shall be audited annually by professional auditors appointed by the Board with the approval of the Minister.
- (3) The expenses of, and incidental to, any audit shall be payable out of the funds of the Board.
- (4) The Board shall, as soon as is practicable, but not later than six months after the end of each financial year, submit to the Minister 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, and shall be laid by the Minister before the National Assembly pursuant to section 32F of the Finance and Audit Act.

[Cap. 37:01]

Part IV – Registration

19. Registers

- (1) The Board shall, for the purposes of this Act, keep and maintain, in the appropriate prescribed forms—
 - (a) a Register of Engineers;
 - (b) a Register of Graduate Engineers;
 - (c) a Register of Selected Registered Engineers;
 - (d) a Register of Technician Engineers; and
 - (e) a Register of Engineering Technicians.
- (2) The Registers shall be in the custody and under the control of the Registrar and shall be kept at the offices of the Board, or at such other place in Malawi as the Board may direct.
- (3) The Registrar shall perform such duties in connexion with the Registers as may be prescribed, and, in this regard, shall be under the control of the Board 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 force in course of duty; and

- (b) members of the public, upon payment of the prescribed fee.
- (5) Every person registered under this Act as a Registered Engineer shall, before 31st March each year, pay to the Board such annual fee and in such manner as may be prescribed.
- (6) The Register of Engineers referred to under subsection (1) (d) shall be kept and maintained in two Parts—
 - (a) Part I of 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 [section 34](#) (1) (e);
 - (b) Part II of 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; and
 - (iii) has paid the prescribed annual fee.
- (7) The Registrar shall, once in every year and as soon as may be convenient after 1st April, publish in the *Gazette* the names, addresses, qualifications, date of registration and other particulars of all persons registered in the Current Register.

[9 of 1988]

20. Engineers must be registered

- (1) Save where this Act otherwise provides, no person shall engage in the practice of engineering in Malawi, or hold himself out as being entitled so to do, unless he is registered under this Act.
- (2) Any person who engages in the practice of engineering in contravention of subsection (1) 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 in the course of his said practice.
- (3) No person other than a natural person may be registered under this Act.

21. Applications to the Board

Every application for registration under this Act shall be made to the Board in the form and manner prescribed and shall be accompanied with the appropriate prescribed fee.

22. Registration as Registered Engineer

- (1) Any person shall be entitled to make application for registration as a Registered Engineer under this Act if—
 - (a) he has attained the age of 25 years; and
 - (b) he has, in consequence of an examination, obtained from an approved institution a degree or other qualifying certificate which the Board considers acceptable for registration; and
 - (c) he has passed the appropriate Engineering Qualifying Examination; and
 - (d) he has, for the prescribed period, been registered as a Graduate Engineer under this Act, and has complied with all of the conditions attached to his registration as such Graduate Engineer.
- (2) Where a person who applies for registration as Registered Engineer 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 institution which is not an approved institution, the Board,

if it is of opinion that such degree or qualifying certificate is academically equivalent to a degree or qualifying certificate of an approved institution 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 Registered Engineer—
- (a) has complied with the requirements of subsection (1) (b), or in whose case the Board has waived compliance therewith, pursuant to subsection (2); and
 - (b) shows, to the satisfaction of the Board, that, since his obtaining his degree or qualifying certificate, he has been engaged in active practice as an engineer for a period or periods totalling not less than two years,
- the Board may, in its absolute discretion, in the case of such person waive the requirements of subsection (1) (c) or subsection (1) (d), or both.
- (4) If the Board 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 Board pursuant to subsection (2) or subsection (3), it shall direct the Registrar to register the said applicant in the Register of Engineers.
- (5) This section is subject to the provisions of [section 25](#) in the case of certain officers in the public service and of certain persons in the employment of prescribed statutory corporations.

[39 of 1981]

23. Registration as a Graduate Engineer

- (1) Any person shall be entitled to make application for registration as a Graduate Engineer under this Act if he has complied with requirements of [section 22](#) (1) (b) or with such of those requirements as have not, in his case, been waived by the Board under [section 22](#) (2), as the case may be.
- (2) The provisions of sections [22](#) (1) (b), [22](#) (2) and [22](#) (3) (a) shall apply, *mutatis mutandis*, to every application made under this section.
- (3) If the Board 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 has complied with all of the relevant requirements of this section, save such as have, in his case, been waived by the Board pursuant to [section 22](#) (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 Selected Registered Engineer, registered as such under this Act.
- (5) The Board shall prescribe the period of training required of Graduate Engineers pursuant to subsection (4), but in no case shall such period be for less than one year nor more than three years.
- (6) The Board 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 Selected Registered Engineer for the purposes of this section shall be in writing in a form approved by the Board and shall be executed by both parties thereto in triplicate and delivered to the Registrar by the Selected Registered Engineer 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 Selected Registered Engineer shall, not earlier than the 1st October and not later than the 31st 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 [section 22](#) (1) (d) have been waived by the Board, pursuant to [section 22](#) (3).

[13 of 1974]

[8 of 1980]

23A. Registration as a Technician Engineer

- (1) Any person shall be entitled to make an application for registration as Technician Engineer under this Act if—
- (a) he has obtained a diploma in engineering or a full technological certificate from the University of Malawi or has obtained from an approved institution other qualifications which the Board considers acceptable for registration and, subsequent to his qualifying diploma or certificate—
 - (i) he has received practical training from approved employment or institution as a technician for a period of not less than two years; and
 - (ii) he has had a minimum of three years' relevant engineering experience at least two years of which had been at a level of responsibility commensurate with the duties of a technician engineer; or
 - (b) he produces evidence, satisfactory to the Board, of his registration in any other country at an equivalent level by a registration authority of that country recognized by the Board.
- (2) If the Board 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.

[9 of 1988]

23B. Registration as an Engineering Technician

- (1) Any person shall be entitled to make an application for registration as an Engineering Technician under this Act if—
- (a) he has obtained Parts I and II technician certificates in a relevant branch of engineering from the Polytechnic of Malawi or has obtained from an approved institution other qualifications which the Board considers acceptable for registration and, subsequent to his qualifying certificate—
 - (i) he has received practical training from approved employment or institution as a technician for a period of not less than two years; and
 - (ii) he has had not less than two years' experience as an engineering technician; or
 - (b) he produces evidence satisfactory to the Board of his registration in any other country at an equivalent level by a registration authority of that country recognized by the Board.
- (2) If the Board 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.

[9 of 1988]

24. Engineering Qualifying Examination

- (1) The Board shall, 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 himself 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 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 in writing or oral, or partly in writing and partly oral.
- (5) Notwithstanding the foregoing provisions of this section, a person applying for registration as a Registered Technician Engineer or Registered Engineering Technician shall not be required to sit an Engineering Qualifying Examination.

[9 of 1988]

25. Registration of public officers as Registered Engineers

- (1) Any other provision of this Act to the contrary notwithstanding, any person who—
 - (a) is qualified as an engineer and entitled to practise engineering—
 - (i) in any State which is, or was at any time, a member State, or part of a member State, of the Commonwealth; or
 - (ii) in any other State, whose qualifying requirements for the practice of engineering in such State are acceptable to the Board as sufficient for the purposes of this section; and
 - (b) has, for a period of not less than two years prior to his application under this section, practised as a qualified engineer in such State; and
 - (c) is in active employment as an engineer in any Ministry or Department of the Government, or in any prescribed statutory corporation, performing engineering duties on behalf of the Government or of the said prescribed statutory corporation,

shall be entitled to make application to the Board for registration as a Registered Engineer under this Act.

- (2) Every application under subsection (1) shall be in the prescribed form and shall be verified by the affidavit of the applicant and approved by the Principal Secretary of the Ministry, or the head of the Department, or the principal administrative officer of the prescribed statutory corporation, as the case may be, in which the applicant is employed.

[39 of 1981]

26. Registration of Selected Registered Engineers

- (1) The Board may, from time to time, select from among the engineers registered pursuant to this Act, such Registered 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 Registered Engineers selected by the Board in accordance with subsection (1) shall be registered as Selected Registered Engineers in the Register of Selected Registered Engineers.
- (3) Registration of a Registered Engineer in the Register of Selected Registered Engineers shall in no way affect or alter his registration in the Register of Engineers.
- (4) The Board may, in its absolute discretion, at any time cancel the registration of any Registered Engineer in the Register of Selected Registered Engineers, and shall not be required to give or disclose to any person any reason for such cancellation.

[39 of 1981]

27. Certificate of registration

The Registrar shall issue to every person registered as a Registered Engineer, as a Graduate Engineer, a Technician Engineer or an Engineering Technician, as the case may be, under this Act, a certificate of registration in the appropriate prescribed form.

[39 of 1981]

[9 of 1988]

28. Correction of Registers

- (1) The Registrar may, with the prior approval of the Board, from time to time, make any necessary alteration or correction in any Register in relation to any entry therein.
- (2) The Registrar shall remove formality Register to name of any deceased person, and shall, when directed by the Board 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, be reinstated by the Registrar.

Part V – Disciplinary Provisions

29. Disciplinary committee

- (1) There shall be a disciplinary committee of the Board, hereinafter referred to as the “disciplinary committee”, which shall consist of—
 - (a) the Chairman or, in his absence, the Vice-Chairman;
 - (b) two members of the Board, appointed by the Board; and
 - (c) three Registered Engineers, who are not members of the Board, appointed by the Board.
- (2) Any three members of the disciplinary committee together with the Chairman, or, in his absence, the Vice-chairman, shall constitute a quorum of such committee.

- (3) The Chairman, or, in his absence, the Vice-Chairman, shall preside at every meeting of the disciplinary committee and shall have, deliberative vote thereat and, in the event of an equality of votes, shall also have a casting vote.

[39 of 1981]

30. Powers of inquiry of disciplinary committee

The disciplinary committee shall be empowered to inquire into the conduct of Registered Engineers, Graduate Engineers, Technician Engineers and Engineering Technicians, in accordance with the provisions of this Part, and to report its findings on any such inquiry, and make recommendations thereon, to the Board.

[39 of 1981]

[9 of 1988]

31. Inquiry by disciplinary committee

- (1) If the Board is of opinion that any Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician—
- (a) knowingly and habitually engages in practices, in the course of his professional work as a Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, 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 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 Board 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 Registrar in writing to convene in its name the disciplinary committee to conduct an inquiry, in accordance with this section, into the matters of complaint in respect of the conduct of the said Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, in the said direction in writing contained.

- (2) Upon receipt from the Board of the direction in writing referred to in subsection (1), the Registrar shall, as soon as is practicable, by notice in writing to the members of the disciplinary committee, convene a meeting of such 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) Not later than fourteen days before the date of the inquiry referred to in subsection (2), the Registrar shall cause to be served upon the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, to whom the matters of complaint relate, a notice in writing, setting out the matters of complaint as contained in the direction of the Board, referred to in subsection (1), the date, place and time of the inquiry thereon and such other matters as the Board may, in his case, direct.

- (4) 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 Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, into whose conduct the inquiry is being conducted, shall not be entitled to his expenses of attending the said inquiry.

[Cap. 18:01]

- (5) The Board may be represented at any inquiry, held under this Part, by any Registered Engineer (other than a member of the disciplinary committee), nominated by the Board, or by any legal practitioner, or by both such Registered Engineer and such legal practitioner.
- (6) The Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, whose conduct is the subject matter of any inquiry held under this Part, may be represented at such inquiry by any Registered Engineer (other than a member of the Board or of the disciplinary committee) nominated by such Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, or he may be represented thereat by any legal practitioner or by both such Registered Engineer and such legal practitioner.
- (7) The Board, with the approval of the Minister, may by rule prescribe the practice and procedure to be followed in the conduct of an inquiry by the disciplinary committee under this Part. In the absence of any such prescription, the disciplinary committee may, in the conduct of each such inquiry, determine its own procedure.
- (8) The Board may, of its own volition, instigate an inquiry under subsection (1), or may do so on the complaint of any person.

[39 of 1981]

[9 of 1988]

32. Disqualification of member of disciplinary committee

- (1) If any member of the disciplinary committee or his spouse, or if any company of which he or she is a director or major shareholder, or any partner of such member or his 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 private interests conflict with his duties as a member of the disciplinary committee, or if he or his spouse is related by consanguinity or affinity to the person whose conduct, or whose complaint, is under inquiry by the said committee, he shall, as soon as he becomes aware of such interest in such matter, or of such relationship to such person, disclose the facts relating thereto to the Board, and shall not act on such disciplinary committee during the conduct of such inquiry, nor take part in the consideration of any matter before the Board 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 cent of the voting rights in the relevant company, whether by reason of shareholdings, debenture holdings, proxy or otherwise.

33. Report to Board by disciplinary committee

- (1) The disciplinary committee shall, as soon as practicable after the close of the inquiry, consider the evidence adduced and the representations made thereat, and shall, without undue delay complete and deliver to the Board its report thereon together with such documents as were produced and are relevant to the matters inquired into, and shall make its recommendations as to whether the complaint should be dismissed, or the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, should be reprimanded, or his registration suspended or cancelled.

- (2) No person, other than the members of the Board, shall be entitled to a copy, or to be informed of the contents, of any report made to the Board, or of any recommendations made thereon, by the disciplinary committee pursuant to this section.

[39 of 1981]

[9 of 1988]

34. Decision of Board; reprimand, suspension and cancellation of registration; appeal to High Court

- (1) Having considered the report and recommendations of the disciplinary committee delivered to the Board pursuant to [section 33](#), and also having considered such other matters as the Board deems relevant, the Board shall decide whether—
- (a) the complaint should be dismissed; or
 - (b) the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, should be reprimanded; or
 - (c) the Registered Engineer, Graduate Engineer, Technician Engineer, or Engineering Technician, as the case may be, should be reprimanded and required to compensate, in a sum stated, the person or persons, whose complaint to the Board caused the inquiry to be instigated, for any loss suffered by reason of the facts inquired into; and, in the event of failure to make such compensation within a stated period, the registration of such Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, should be suspended for a stated period of time or cancelled; or
 - (d) the registration of the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, should be suspended for a stated period of time. The Board may attach such terms and conditions as it deems meet to any such suspension; or
 - (e) the registration of the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, should be cancelled,

and shall cause the Registrar to make the appropriate entries thereof in the record of the relevant inquiry, and, where appropriate, in the relevant Register, in accordance with subsections (2) to (6) inclusive.

- (2) Where the decision of the Board is that the complaint should be dismissed, the Registrar shall make the appropriate entry thereof in the record of the relevant inquiry, and shall notify the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, thereof, in writing.
- (3) Where the decision of the Board is one of reprimand only pursuant to subsection (1) (b), the Registrar shall make the appropriate entry thereof in the record of the relevant inquiry.
- (4) Where the decision of the Board is one of reprimand together with a requirement to make compensation pursuant to subsection (1) (c), the Registrar shall make the appropriate entry thereof in the record of the relevant inquiry and in the relevant Register:

Provided that, in the event of satisfactory proof of payment of the said compensation within the time stated, the Registrar shall cancel the said entry of the said decision in the relevant Register only.

- (5) Where the decision of the Board is one of suspension with or without terms or conditions, pursuant to subsection (1) (d), the Registrar shall make the appropriate entry thereof in the record of the relevant inquiry and in the relevant Register, and shall note in such Register the terms or conditions, if any, attaching to such suspension.

- (6) Where the decision of the Board is one of cancellation of registration, the Registrar shall make the appropriate entry in the record of the relevant inquiry, and shall strike the registration of the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, off the relevant Register, and shall cause notice of such cancellation and striking-off to be published in one issue of the *Gazette*.
- (7) The Registrar shall, without undue delay, after making the entry or entries of the decision of the Board in the record of the relevant inquiry or in the relevant Register, or in both, as required by subsection (3), (4) or (5), cause notice thereof to be served upon the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, affected by such decision. Every such notice shall be in writing and shall set out the terms of the relevant reprimand or suspension as ordered by the Board, together with any term as to compensation or otherwise, or other condition, attached by the Board to such reprimand or suspension, and shall be served by registered letter addressed to the said Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, at the address in Malawi last shown for him in the relevant Register, and the Registrar shall, further, make an entry in the record of the relevant inquiry setting out the date and time of posting of such registered letter.
- (8) The Registrar shall, without undue delay, after striking the registration of the relevant Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, off the relevant Register and cancelling such registration, pursuant to subsection (6), cause notice thereof to be served upon the Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, thereby affected. Such notice shall be in writing and shall set out in terms the relevant order of the Board and the date and time such striking-off and cancellation were effected, and shall be served by registered letter addressed to the said Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, as the case may be, at the address in Malawi last shown for him in the relevant Register, and the Registrar shall, further, make an entry in the record of the relevant inquiry setting out the date and time of posting of such registered letter.
- (9) Any Registered Engineer, Graduate Engineer, Technician Engineer or Engineering Technician, whose registration has been suspended or cancelled, may appeal to the High Court against the decision of the Board by serving upon the Registrar a Notice of Appeal, in the prescribed form, within thirty days after the date of service of the notice of suspension or cancellation, by the Registrar pursuant to subsection (7), or subsection (8), as the case may be.
- (10) At any time after service of Notice of Appeal pursuant to subsection (9), the appellant may, by giving to the Board not less than three days' notice in writing of his intention to do so, apply to the High Court in Chambers for a suspension of the effect of the decision of the Board, pending the decision of the Court on his appeal therefrom, and the Court, in its absolute discretion, may grant or refuse such application, or may grant the same upon such terms and conditions as to costs or otherwise as it deems meet.
- (11) The High Court may require evidence to be adduced by the appellant or the Board at the hearing of any appeal under this section, and, having heard such evidence, if any, and any submissions made on behalf of the parties, the said Court may affirm, reverse, modify or alter the decision of the Board; and where such decision is reversed, modified or altered by the High Court, the Board shall, without undue delay, cause such ruling of the High Court to be implemented.
- (12) The High Court may make such Order as to the costs of any appeal under this section as it deems meet.

[39 of 1981]

[9 of 1988]

Part VI – Miscellaneous

35. Use of title

- (1) Any person registered as a Registered Engineer under this Act shall, by virtue of such registration, be entitled to take and use the title and description of Registered Engineer.
- (2) Any person registered as a Graduate Engineer under this Act shall, by virtue of such registration, be entitled to take and use the title and description of Registered Graduate Engineer.
- (3) Any person registered as a Technician Engineer under this Act shall, by virtue of such registration, be entitled to take and use the title and description of Registered Technician Engineer.
- (4) Any person registered as Engineering Technician under this Act shall, by virtue of such registration, be entitled to take and use the title and description of Registered Engineering Technician.
- (5) Any person registered under this Act shall not take, or use, or affix to, or use in connexion with his business office or premises, any title in addition to that under which he is registered under this Act, other than as indicated by the particulars relating to his qualifications entered in the relevant Register.

[39 of 1981]

[9 of 1988]

36. Execution of certificates and other documents

No certificate or other document which is required by law, or under the terms or conditions of any contract, to be signed by a duly qualified engineer, shall, if so signed in Malawi, be valid unless signed by a person duly registered, and competent to sign such certificate or other document, under this Act.

37. Regulations

The Minister may, from time to time, by Regulations, made by notice 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 carrying out of this Act, and without prejudice to the generality of the foregoing, such Regulations may make provision for—

- (a) the forms of the Registers required to be maintained by the Board under [section 19](#);
- (b) the forms of applications, notices, licences, certificates and other documents required for the purposes of this Act;
- (c) the forms of books and records to be kept for the purposes of this Act;
- (d) the allowances to be paid to members of the Board and to members of committees of the Board in respect of travelling expenses and subsistence;
- (e) the fees to be paid to the Board on any application for registration as a Registered Engineer;
- (f) the fees to be paid to the Board on any application for registration as a Graduate Engineer;
- (g) 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;
- (h) the fees to be paid to the Board on any application for registration as a Technician Engineer;
- (i) the fees to be paid to the Board on any application for registration as Engineering Technician; and

- (j) the annual fees to be paid to the Board by Registered Engineers.

[39 of 1981]

[9 of 1988]

Part VII – Offences

38. Unlawful practice of engineering

Save where this Act otherwise provides, any person who is not registered under this Act, and who, in Malawi—

- (a) engages, or purports to engage, in the practice of engineering;
- (b) holds himself 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 registered under this Act,

shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for a term of one year.

39. Unlawful use of descriptions

Any person who, in relation to himself or to any business which he owns, manages or controls, assumes or uses, in Malawi—

- (a) the title or description of “Registered Engineer”;
- (b) the title or description of “Registered Graduate Engineer”;
- (c) the title or description of “Registered Technician Engineer”; or
- (d) the title or description of “Registered Engineering Technician”, or any 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 fine of K1,000 and to imprisonment for a term of one year.

[39 of 1981]

[9 of 1988]

40. Unlawful employment of non-registered persons

- (1) Any person who, without the prior written consent of the Board—
 - (a) employs any person not registered under this Act to do or perform; or
 - (b) during the course of his 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 fine of K1,000 and to imprisonment for a term of one year.
- (2) Any person not registered under this Act, who, while in the employment of any other person, 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 fine of K500 and to imprisonment for a term of six months.

41. Fraudulent entries and copies

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 fine of K500 and to imprisonment for a term of six months.