

Malawi

Political Parties (Registration and Regulation) Act Chapter 2:07

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Political Parties (Registration and Regulation) Act
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Malawi

Political Parties (Registration and Regulation) Act

Chapter 2:07

Commenced on 5 July 1993

[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.]

[Repealed by [Political Parties Act, 2018 \(Act 1 of 2018\)](#) on 1 December 2018]

[15 of 1993; 18 of 1996]

An Act to provide for the registration and regulation of political parties in Malawi; and to provide for matters connected with or incidental thereto

Part I – Preliminary

1. Short title

This Act may be cited as the Political Parties (Registration and Regulation) Act.

2. Interpretation

In this Act—

“**office bearer**” includes the leader of a political party;

“**political party**” means a combination of persons who have constituted themselves for a political purpose;

“**Registrar**” means the Registrar of Political Parties appointed under [section 3](#).

Part II – Establishment of office of Registrar

3. Establishment of office of Registrar

- (1) There shall be a registrar of Political Parties (in this Act referred to as the “Registrar”) appointed by the Minister, and whose office shall be a public office.
- (2) In addition to the Registrar there shall be appointed in the public service such other officers subordinate to the Registrar as are necessary for the proper performance of the functions of the Registrar.
- (3) Until appointments under subsections (1) and (2) have been made, the officer for the time being holding or acting in the office of Registrar General shall hold, or act in the office of Registrar and the officers subordinate to him shall be the officers for the purposes of subsection (2).

Part III – Registration of political parties

4. Register

- (1) The Registrar shall keep a register in which shall be recorded such particulars relating to a registered political party as are prescribed in this Act.
- (2) A copy of an entry in the register certified under the hand of the Registrar or a person authorized by the Registrar shall, for the purposes of any written law, be *prima facie* evidence of the facts stated in the certificate.

5. Application for registration

- (1) A political party consisting of not less than 100 registered members may apply in writing to the Registrar for registration under this Act.
- (2) An application for registration shall be signed by the office bearers of the political party and shall—
 - (a) specify the name of the party; and
 - (b) be accompanied by—
 - (i) two copies of the constitution, rules and manifesto of the party, duly certified by the leader of the party;
 - (ii) the particulars of the registered office of the party;
 - (iii) a list giving the names and addresses of the leader and other office bearers of the party;
 - (iv) a list giving the names and addresses of not less than 100 registered members of the party; and
 - (v) such further information or document as the Registrar may require for the purpose of satisfying himself that the application complies with this Act or that the party is entitled to be registered under this Act.
- (3) The list referred to in paragraphs (b)(iii) and (iv) of subsection (2) shall be signed by each of the persons named therein.
- (4) A person shall not be considered to be a member of a political party for the purpose of this Act unless he is a citizen of Malawi and has attained the voting age of voters in parliamentary general elections prescribed in a written law.

6. Certificate of registration

- (1) Where the Registrar registers a political party, he shall issue the party with a certificate of registration and shall register and stamp the copies of the constitution, rules and manifesto of the party submitted with the application and return a copy thereof to the party.
- (2) A registered political party shall display its certificate of registration at its registered office.
- (3) The Registrar shall, as soon as practicable, give notice of the registration of a political party in the *Gazette*.

7. Refusal to register political party

- (1) The Registrar may refuse to register a political party if he is satisfied that—
 - (a) the application is not in conformity with this Act;

- (b) the name of the party—
 - (i) is identical to the name of a registered political party or a political party whose registration has been cancelled under this Act;
 - (ii) so nearly resembles the name of a registered political party or a political party whose registration has been cancelled under this Act; or
 - (iii) denotes a religious faith;
 - (iv) is provocative or offends against public decency or is contrary to any other written law;
 - (c) any purpose or object of the party is unlawful.
- (2) A political party shall be deemed to have a purpose or object which is unlawful for the purpose of this Act if—
- (a) it seeks, directly or indirectly, to further ethnical, racial or religious discrimination or discrimination on the grounds of colour;
 - (b) its objectives or membership is based on a religious faith;
[18 of 1996]
 - (c) it advocates or seeks to effect political change in the Republic through violence or unlawful means; and
 - (d) it seeks to secede any part of the Republic from the Republic.
- (3) For the purposes of determining whether a political party has an unlawful purpose or object the Registrar may consider any document issued or statement made by, or on behalf of, the party or by an office bearer of the party.
- (4) Where the Registrar refuses to register a political party, he shall forthwith serve upon the party a notice in writing to that effect and shall specify the grounds for his refusal.
[18 of 1996]

8. Appeal against refusal to register

- (1) Where the Registrar refuses to register a political party, an office bearer of the party may, within twenty-one days after receiving the notice of refusal, appeal to the High Court and the High Court may make such order as it thinks fit.
- (2) The Registrar shall be entitled to be heard on an appeal.

9. Cancellation of registration

- (1) Subject to subsection (2), the Registrar may cancel the registration of a political party—
 - (a) at the request of the party made and signed by the office bearers of the party;
 - (b) on proof to the satisfaction of the Registrar that—
 - (i) the registration of the party has been obtained by fraud or mistake;
 - (ii) the party has a purpose or object which is unlawful; or
 - (iii) the number of registered members of the party has fallen below 100;
 - (c) if the party, after notice of the Registrar requiring compliance with this Act, fails to do so within a reasonable time or within the time specified by the Registrar in the notice;
 - (d) the Registrar is satisfied that the party has ceased to exist.

- (2) The Registrar shall, twenty-one days before cancelling the registration of a political party, give notice in writing to the party of his intention to cancel its registration and of the grounds on which he intends to do so but no notice shall be required where subsection 1 (a) or (c) applies.
- (3) The Registrar shall, as soon as practicable after cancelling the registration of a political party, give notice of the cancellation in the *Gazette*.

10. Appeal against cancellation of registration

- (1) An office bearer of a political party in respect of which the Registrar has issued a notice under [section 9](#) (2) may, upon receipt of the notice and before the period specified in [section 9](#) (2) has elapsed, appeal to the High Court against the finding of the Registrar contained in the notice of intended cancellation and the High Court may make such order as it thinks fit.
- (2) Where the registration of a political party has been cancelled as a result of a request of the party or because the party has ceased to exist, a person who was a member of the party at the time of cancellation may, within fourteen days after the publication of the notice of cancellation in the *Gazette*, appeal to the High Court against the cancellation and the High Court may make such order as it thinks fit.
- (3) The Registrar shall be entitled to be heard on an appeal.

11. Notice of change in registered particulars

Every registered political party shall, within seven days of any change occurring in the address of its registered office, or among its office bearers or in the particulars of its office bearers, notify the Registrar in writing of such change.

12. Notice of change in the constitution and rules, etc.

- (1) Every registered political party shall, within seven days of making an amendment to its constitution, rules or manifesto submit two copies of the amendment to the Registrar and the amendment shall not have effect until it has been registered by the Registrar.
- (2) Where the Registrar registers an amendment submitted under subsection (1) he shall stamp the two copies of the amendment and return a copy to the political party.

13. Refusal to register amendments

- (1) The Registrar may refuse to register an amendment submitted under [section 12](#) (1) if it appears to the Registrar that by reason of the amendment the purpose or object of the political party would be unlawful or the amendment contravenes this Act and the Registrar shall give notice in writing of the refusal to the party and shall specify the grounds for the refusal.
- (2) Where the Registrar refuses to register an amendment an office bearer of the political party may, within fourteen days of the date of the notice of refusal, appeal to the High Court and the High Court may make such order as it thinks fit.
- (3) The Registrar shall be entitled to be heard on an appeal.

14. Further information and inspection

- (1) The Registrar may, at any time after the registration of a political party, require the political party to submit to him any manifesto or other document issued or produced by it or in its name for any purpose.
- (2) The Registrar or a person authorized in writing by the Registrar may at any reasonable time inspect and take or extract from copies of, or require an office bearer or employee of a registered political

party to produce in readable form and provide him with, a copy of or extract from the record of a registered political party.

15. Confidentiality

- (1) The Registrar, a person authorized by the Registrar and an officer appointed under [section 3](#) (2) shall not disclose to any person any information, other than—
 - (a) the name of a registered political party;
 - (b) the address of the registered office of a registered political party; or
 - (c) the particulars of the office bearers of a registered political party,obtained in connexion with or in the course of the exercise of his functions under this Act, except for the purposes of, or in connexion with, an offence under this Act, or where required to do so under any other written law or an order of a Court.
- (2) Every person who contravenes subsection (1) is guilty of an offence and is liable to a fine of K2,000 and imprisonment for twelve months.

Part IV – Miscellaneous

16. Onus of proof

Where a written law prohibits the doing of anything except by or restricts the doing of anything to, a registered political party, the onus of proving that—

- (a) a political party is registered under this Act shall be on the person who claims that it is so registered;
- (b) a person is an office bearer or member of or has been authorized by the registered political party in respect of which he claims to be acting shall be on the person who claims to be an office bearer or member of or to be authorized by the party.

17. Electioneering

- (1) A political party or any other combination of persons shall not represent itself as registered unless it is so registered.
- (2) A political party or any other combination of persons shall not electioneer, or authorize any person to act on its behalf, in connexion with an election in which political parties contest unless it is a registered political party.
- (3) No person shall act on behalf of, or represent himself as acting on behalf of, a political party or any other combination of persons in connexion with or for the purpose of a specified election unless—
 - (a) the political party or combination of persons is a registered political party; and
 - (b) the person is a member of, and has been authorized in writing to act on behalf of, the registered political party.
- (4) A political party or any other combination of persons or any person who contravenes this section is guilty of an offence and liable to a fine of K2,000.

18. False information, obstruction, etc., of the Registrar

- (1) Every person who—
 - (a) for the purpose of obtaining the registration of a political party, wilfully—
 - (i) furnishes any false or misleading information;

- (ii) makes any false declaration; or
- (iii) forges or otherwise submits any document which he knows is false or misleading, to the Registrar or any person authorized by the Registrar;
- (b) fails to furnish the Registrar or any person authorized by the Registrar with any information, document or extract when required or within the time required;
- (c) obstructs the Registrar or any person authorized by the Registrar in the performance of his functions under this Act,

is guilty of an offence and liable to a fine of K2,000 and imprisonment for twelve months.

19. Copy of constitution, etc.

- (1) An office bearer of a registered political party shall not distribute to any person, other than the Registrar or a person authorized by the Registrar in connexion with the performance of his functions under this Act or a police officer in connexion with an offence under this Act or any other written law, a document which purports to be a copy of or a copy of a part of or an extract from the constitution or rules of the political party unless the document is an exact copy of or an exact copy of the part of or exact extract from the latest registered copy of the constitution or rules of the political party.
- (2) An office bearer who contravenes subsection (1) is guilty of an offence and is liable to a fine of K1,000 and to imprisonment for, six months.

20. Failure to notify changes

A registered political party which fails to comply with [section 11](#) or [section 12](#) is guilty of an offence and liable to a fine of K2,000 and to a further fine of K50 for each day that the offence continues after conviction.

21. Offences by office bearer

Where a political party, whether registered or not, or any other combination of persons commits an offence under this Act, every office bearer of the political party or of the combination of persons shall, unless it is proved—

- (a) that the office bearer did not know of the act or omission constituting the offence; or
- (b) that the offence is not attributable to the negligence of the office bearer,

be deemed to have committed the offence and liable to the fine prescribed for the offence and to imprisonment for twelve months.

22. Regulations

The Minister may make regulations for carrying into effect the provisions of this Act and for matters necessary or required to be prescribed or specified under this Act.