

Malawi

## Technical, Entrepreneurial and Vocational Education and Training Act Chapter 55:06

Legislation as at 31 December 2014

FRBR URI: /akn/mw/act/1999/6/eng@2014-12-31

There may have been updates since this file was created.

PDF created on 21 September 2023 at 15:35.

*Collection last checked for updates: 31 December 2014.*

[Check for updates](#)



### About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

[www.laws.africa](http://www.laws.africa)  
[info@laws.africa](mailto:info@laws.africa)

There is no copyright on the legislative content of this document.  
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Technical, Entrepreneurial and Vocational Education and Training Act  
 Contents

Part I – Preliminary ..... 1

    1. Short title ..... 1

    2. Interpretation ..... 1

Part II – Objectives of technical education and training ..... 2

    3. Objectives of technical education and training ..... 2

Part III – Establishment of Technical, Entrepreneurial and Vocational Education and Training Authority of Malawi  
 ..... 2

    4. Establishment of Authority ..... 2

    5. Functions of the Authority ..... 2

Part IV – Establishment of Board of the Authority ..... 3

    6. Establishment of Board of the Authority ..... 3

    7. Vacation of members from office ..... 4

    8. Meetings of the Board ..... 5

    9. Invited persons ..... 5

    10. Remuneration and expenses of members, etc. .... 5

    11. Powers of the Board ..... 6

    12. Establishment of Technical Qualification Committee ..... 6

    13. Functions of the Technical Qualification Committee ..... 7

    14. Establishment of Trade Advisory Committees ..... 7

    15. Functions of Trade Advisory Committees ..... 7

    16. Other committees of the Board ..... 8

    17. Designation of Resource Centres ..... 8

Part V – Management ..... 9

    18. Appointment of Executive Director ..... 9

    19. Appointment of other officers and staff ..... 9

Part VI – Technical, Entrepreneurial and Vocational Education and Training Payroll-Levy ..... 10

    20. Technical Entrepreneurial and Vocational Education and Training Payroll-Levy ..... 10

    21. Penalty upon failure to pay levy ..... 10

    22. Summary recover of unpaid levy, etc. .... 10

    23. Exemption from levy ..... 11

    24. Collection of levy ..... 11

    25. Maintenance of basic payroll by employers ..... 11

    26. False information, etc., to evade levy ..... 11

    27. Designation of inspectors ..... 11

Part VII – Establishment of Technical, Entrepreneurial and Vocational Education and Training Fund ..... 12

    28. Establishment of Technical, Entrepreneurial and Vocational Education and Training Fund ..... 12

    29. Resources of the Fund ..... 12

    30. Management and auditing of the Fund ..... 12

Part VIII – Financial provisions ..... 13

    31. Funds of the Authority ..... 13

    32. Books and other records of accounts and audit ..... 13

    33. Annual reports ..... 13

    34. Financial year ..... 14

Part IX – Miscellaneous provisions ..... 14

    35. Exemption from personal liability ..... 14

    36. Regulations ..... 14

Part X – Transitional provisions ..... 14

    37. Vesting of liabilities, etc. .... 14

    38. Repeal and savings ..... 15



# Malawi

## Technical, Entrepreneurial and Vocational Education and Training Act

### Chapter 55:06

Commenced on 1 July 1999

*[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 the promotion and co-ordination of technical entrepreneurial and vocational education and training; the establishment of the Technical, Entrepreneurial and Vocational Education and Training Authority of Malawi; the establishment of a Technical, Entrepreneurial and Vocational Education and Training Fund, the payment into the Fund of periodical contributions levied on employers and the application of the Fund towards defraying various costs and expenses relating to technical education and training; and further to provide for matters incidental to or connected with the forgoing**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Technical, Entrepreneurial and Vocational Education and Training Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**Authority**” means the Technical, Entrepreneurial and Vocational Education and Training Authority of Malawi established under [section 4](#);

“**basic payroll**” means the total basic annual emoluments paid by an employer to employees;

“**Board**” means the Board of the Authority established under [section 6](#);

“**Chairman**” means Chairman of the Board elected pursuant to [section 6](#);

“**Committee**” means a committee of the Board established under [section 16](#);

“**Executive Director**” means the Executive Director of the Authority appointed under [section 18](#);

“**Fund**” means the Technical, Entrepreneurial and Vocational Education and Training Fund established under [section 28](#);

“**levy**” means the Technical Entrepreneurial and Vocational Education and Training Payroll-Levy imposed under [section 20](#);

“**member**” means a member of the Board appointed as such under [section 6](#);

“**Resource Centre**” means a Resource Centre designated as such under [section 17](#);

“**technical education and training**” means technical, entrepreneurial and vocational education and training;

“**Technical Qualification Committee**” means the Technical Qualification Committee of the Authority established under [section 12](#);

“**Trade Advisory Committee**” means a Trade Advisory Committee established under [section 14](#).

## **Part II – Objectives of technical education and training**

### **3. Objectives of technical education and training**

The technical education and training to be carried out under this Act shall have the following broad objectives—

- (a) to promote an integrated, demand-driven, competency based modular technical education and training system;
- (b) to monitor gaps between supply and demand for skills;
- (c) to support the adoption and application of appropriate technologies;
- (d) to promote managerial and business skills, and a spirit of entrepreneurial culture with regard to both wage and self-employment;
- (e) to facilitate sound and sustainable financing and funding mechanisms for technical education and training; and
- (f) to facilitate and bring together the expertise, and moderate the different interests of stakeholders of technical education and training.

## **Part III – Establishment of Technical, Entrepreneurial and Vocational Education and Training Authority of Malawi**

### **4. Establishment of Authority**

- (1) There is hereby established a body to be known as the Technical, Entrepreneurial and Vocational Education and Training Authority of Malawi (in this Act otherwise referred to as the “Authority”) which shall be—
  - (a) a body corporate with perpetual succession and a common seal;
  - (b) in its corporate name, capable of suing and being sued;
  - (c) capable of holding, purchasing and otherwise acquiring and disposing of any property, moveable or immovable, for the purposes, or in the course, of carrying out its functions; and
  - (d) subject to this Act, capable of doing and performing all such acts and things as bodies corporate may by law do and perform.
- (2) The Authority shall operate as an independent and autonomous body responsible for technical education and training in Malawi.

### **5. Functions of the Authority**

The functions of the Authority shall be—

- (a) to facilitate the provision of technical education and training opportunities, and facilities for such training;
- (b) to facilitate the establishment of a technical education training system which includes both basic and specialized training to meet the needs of both the formal and the informal sectors;
- (c) to satisfy the demands of the labour market for employees with trade skills in order to improve production, and ensure maximum efficiency and relevance of technical education and training programmes;

- (d) to ensure that the system of technical education and training is based on demand, is cost-effective and given a gradually decentralized planning and implementation authority to all the Regions of Malawi to ensure maximum utilization of resources and relevance of technical education and training programmes;
- (e) to foster and promote entrepreneurial values and skills, as an integral part of all technical education and training programmes;
- (f) to promote access to technical education and training for disadvantaged groups;
- (g) to secure adequate and sustainable financing for technical education and training;
- (h) to raise the quality of technical education and training being provided by technical education and training institutions;
- (i) to promote the provision of technical education and training according to needs within the framework of overall national socioeconomic development plans and policies;
- (j) to promote the balancing of supply and demand for skilled labour in both wage-employment and for skills needed for self employment in rural and urban areas;
- (k) to promote and to provide short tailor-made course programmes and in-service training in order to improve the performance and productivity of the national economy;
- (l) to provide a competency-based technical education and training system, combining broad basic training, gradual specialization and practical work experience;
- (m) to promote a flexible training approach and other appropriate teaching methodologies;
- (n) to provide technical education and training for the formal and informal sectors through co-ordination with recognized existing institutions;
- (o) to monitor and review technical education and training policy;
- (p) to set standards and qualifications for any occupation, skill, technology or trade in line with the needs of the labour market;
- (q) to approve curricula of registered institutions providing technical education and training; and
- (r) to regulate the conduct of national examinations and issuing of certificates relating to technical education and training.

## **Part IV – Establishment of Board of the Authority**

### **6. Establishment of Board of the Authority**

- (1) There is hereby established a Board of the Authority (in this Act otherwise referred to as the “Board”) which shall be the governing body of the Authority and which shall consist of—
  - (a) one member nominated by the Employers Consultative Association of Malawi, and appointed by the Minister;
  - (b) one member nominated by the Malawi Chamber of Commerce and Industry, and appointed by the Minister;
  - (c) one member nominated by the Malawi Congress of Trade Unions, and appointed by the Minister;
  - (d) one member nominated by the Connell for Non-governmental Organizations in Malawi from a non-governmental organization which provides technical education and training, and appointed by the Minister;

- (e) one member nominated by social organizations which provide technical education and training, and appointed by the Minister;
  - (f) one member nominated by technical colleges providing formal technical education and training, and appointed by the Minister;
  - (g) one member representing financial intermediaries in Malawi, and appointed by the Minister;
  - (h) one member representing women, appointed by the Minister;
  - (i) one member representing persons with disabilities, appointed by the Minister;
  - (j) one member representing the youth, appointed by the Minister; and
  - (k) the following *ex officio* members—
    - (i) the Secretary for Labour, or his designated representative;
    - (ii) the Secretary to the Treasury, or his designated representative;
    - (iii) the Secretary for Education, or his designated representative; and
    - (iv) the Secretary for Commerce and Industry, or his designated representative.
- (2) The members shall elect a Chairman and Vice-Chairman from amongst their number.
- (3) An *ex officio* member shall not be eligible to be elected Chairman or Vice-Chairman of the Board.
- (4) A representative of an *ex officio* member shall be designated by, or on behalf of, the *ex officio* member by notice in writing to the Board to attend meetings thereof, and upon such designation such representative shall not attend to the business of the Board by representation.
- (5) A member, other than an *ex officio* member, shall not, by virtue only of his appointment as a member, be deemed to be an officer in the public service.
- (6) A member, other than an *ex officio* member, shall hold office for a period of three years from the date of his appointment, unless his appointment is terminated sooner than the expiry of that period, and shall be eligible for re-appointment.
- (7) The names of all members of the Board as first constituted, and every change in the membership of the Board, shall be published in the *Gazette*.

## 7. Vacation of members from office

- (1) The office of a member, other than an *ex officio* member, shall be vacated—
- (a) upon the expiry of the period of his appointment;
  - (b) upon his death;
  - (c) if he is adjudged a bankrupt;
  - (d) if he is sentenced for an offence against any written law to a term of imprisonment of, or exceeding, six months;
  - (e) if he is absent, without the permission of the Board, from three successive meetings of the Board of which he has had notice;
  - (f) upon notice in writing of his resignation; and
  - (g) if he becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member.
- (2) Whenever there is a vacancy in the office of a member, other than an *ex officio* member, the Minister shall, by notice published in the *Gazette*, appoint another person, nominated by the authority or institution which nominated the original member, to fill the vacancy.



- (3) Subject to [section 8](#) (4), the Board may act notwithstanding any vacancy in the membership of the Board.

## **8. Meetings of the Board**

- (1) The Board shall meet at such place or places, and at such time or times, as the Chairman may determine, and shall meet at least once in every four months.
- (2) An ordinary meeting of the Board shall be convened by at least fourteen days written notice to the members.
- (3) The Chairman may, at his discretion, and shall at the written request of six or more members and within seven days of such request, cause an extraordinary meeting of the Board to be summoned at such place and time as he may appoint.
- (4) The Chairman, or in his absence, the Vice-Chairman, shall preside at meetings of the Board, and the quorum at any meeting of the Board shall be one half of the members.
- (5) In the absence of both the Chairman and Vice-Chairman, the members present and forming a quorum shall elect one of their number to preside over a meeting of the Board.
- (6) Minutes of each meeting of the Board shall be kept by the secretary.
- (7) The decision of the Board at any meeting on any matter shall be that of the majority of the members present and voting, and at all meetings the person presiding shall have, in the event of an equality of votes, a casting vote in addition to his deliberative vote.
- (8) If a member acquires any pecuniary or other interest, direct or indirect, in any matter and is present at a meeting of the Board at which the matter is the subject of consideration by the Board, he shall, as soon as practicable after the commencement of the meeting, disclose the fact to the Board, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the matter.
- (9) Save as otherwise provided in this section, the Board may make standing orders for the regulation of its proceedings and business or the proceedings and business of any committee, and may vary, suspend or revoke any such standing orders.

## **9. Invited persons**

- (1) The Board may, in its discretion at any time and for any length of period, invite any person to attend any meeting of the Board for the purpose of assisting or advising the Board in respect of any matter under consideration by the Board.
- (2) Any person invited pursuant to subsection (1) may take part in the deliberations of the Board at any meeting he attends, but shall not be entitled to vote on any matter at any meeting of the Board.

## **10. Remuneration and expenses of members, etc.**

- (1) Members of the Board, Technical Qualification Committee, Trade Advisory Committee and any committee of the Board shall be paid from the funds of the Authority such allowances as the Board may, subject to the approval of the Minister, determine.
- (2) The Board may make provision for the reimbursement of any reasonable expenses incurred by a member of the Board, Technical Qualification Committee, Trade Advisory Committee or a committee of the Board in connexion with the business of the Board, Technical Qualification Committee, Trade Advisory Committee or a committee of the Board.

## 11. Powers of the Board

For the proper discharge of its functions, the Board shall, subject to any directions on matters of general policy which the Minister may give in that behalf, have the responsibility and power—

- (a) to develop policies on technical education and training and to supervise the implementation of such policies at national level;
- (b) to set policies and procedures for the use of the Fund, including—
  - (i) the approval of allocation criteria and budget norms for the Authority and other training providers;
  - (ii) the appointment of external auditors to audit the accounts of any beneficiary of the Fund;
- (c) to approve the plans and annual budgets of the Authority;
- (d) to establish a personnel and administration policy of the Authority;
- (e) to prescribe guidelines and rules for the operation of the Technical Qualification Committee and Trade Advisory Committees;
- (f) to approve the registration of technical education and training institutions in accordance with prescribed standards and rules; and
- (g) to prescribe rules with respect to the following matters—
  - (i) syllabi;
  - (ii) trade testing systems, examination and certification;
  - (iii) registration, accreditation and inspection of technical education and training institutions;
  - (iv) registration and accreditation fees;
  - (v) student selection and vocational guidance and counselling;
  - (vi) technical teacher education and training;
  - (vii) apprenticeship training; and
  - (viii) such other rules which may be necessary for the implementation of the objectives and provisions of the Act.

## 12. Establishment of Technical Qualification Committee

- (1) For the better carrying out of the functions of the Board, there is hereby established a committee to be known as Technical Qualification Committee (in this Act otherwise referred to as a “Technical Qualification Committee”) which shall consist of such number of members appointed by the Board, being not more than seven, as the Board may determine, and who shall be specialists in technical education and training curriculum development, standardization and assessment.
- (2) Every member of the Technical Qualification Committee shall, unless he sooner resigns or otherwise ceases to hold office, hold office for a period of three years, and shall be eligible for reappointment.
- (3) The Board shall appoint one of the number of its members to be the chairman of the Technical Qualification Committee.
- (4) At all meetings of the Technical Qualification Committee the quorum shall be formed by one-half of the members.
- (5) Save as otherwise provided in this section, the provisions of [section 8](#) relating to the meetings of the Board shall apply, *mutatis mutandis*, to the meeting of the Technical Qualification Committee.

- (6) An officer of the Authority designated by the Executive Director shall act as the secretary to the Technical Qualification Committee and shall, on the instructions of the chairman of the Committee, convene meetings of the Committee.

### 13. Functions of the Technical Qualification Committee

The Technical Qualification Committee shall be responsible for—

- (a) facilitating and promoting a unified national technical qualification system for technical education and training;
- (b) developing and revising curricula and defining appropriate standards and assessment criteria for technical education and training;
- (c) performing such other functions as the Board may determine.

### 14. Establishment of Trade Advisory Committees

- (1) For the better carrying out of its functions, the Board may establish such number of committees to be known as Trade Advisory Committees (in this Act otherwise referred to as “Trade Advisory Committees”) as the Board may deem appropriate to perform such functions and responsibilities as the Board may determine.
- (2) A Trade Advisory Committee may be established in respect of such industry, trade or occupation as the Board may determine.
- (3) Each Trade Advisory Committee shall consist of such number of members appointed by the Board, being no more than seven, as the Board shall determine, of whom—
  - (a) one member shall represent the interests of technical education and training institutions;
  - (b) one member shall be a training specialist;
  - (c) two members shall represent the interests of employers in the industry concerned; and
  - (d) two members shall represent the interests of employees in the industry concerned.
- (4) Every member of a Trade Advisory Committee shall, unless he sooner resigns or otherwise ceases to hold office, hold office for a period of three years, and shall be eligible for re-appointment.
- (5) The Board shall appoint the chairman of the Trade Advisory Committee.
- (6) At all meetings of a Trade Advisory Committee the quorum shall be formed by one-half of the members.
- (7) Save as otherwise provided in this section, the provisions of [section 8](#) relating to the meetings of the Board shall apply, *mutatis mutandis*, to the meetings of a Trade Advisory Committee.
- (8) An officer of the Authority designated by the Executive Director shall act as the secretary to a Trade Advisory Committee and shall, on the instructions of the chairman of that Committee, convene meetings of the Committee.

### 15. Functions of Trade Advisory Committees

- (1) It shall be the responsibility of a Trade Advisory Committee to ensure that technical education and training programmes are in accordance with the needs of the labour market.
- (2) Without prejudice to the generality of subsection (1), a Trade Advisory Committee shall perform the following specific functions—
  - (a) advise the Board on the establishment of new technical training and education programmes and the abolition of obsolete ones;

- (b) assess training needs and determine training standards for the specific trades that Committee is covering;
- (c) draw up training specifications and job descriptions for the trades to be taught;
- (d) ensure co-ordination of related trade training activities;
- (e) approve log-books and trade testing standards for the trades; and
- (f) perform such other functions as may be assigned to it by the Board.

## 16. Other committees of the Board

- (1) The Board may establish additional committees, to carry out any special or general functions determined by the Board, and may delegate to any such committees such functions as the Board may consider expedient.
- (2) The chairman of a committee referred to in subsection (1) shall be appointed by the Board from amongst the members of the Board.
- (3) A committee may invite any person to attend a meeting of the committee and to take part in the deliberations of the meeting, but such person shall not be entitled to vote.
- (4) The chairman may—
  - (a) at any time and place, convene a meeting of the committee of which he is chairman;
  - (b) 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.
- (5) At all meetings of a committee—
  - (a) the quorum shall be formed by one-half of the members;
  - (b) each member present shall have one vote on a question before the committee and, in the event of an equality of votes, the chairman shall have, in addition to a deliberate vote, a casting vote.
- (6) Subject to [section 8](#) (9) every committee shall have power to regulate its own procedure.
- (7) Every committee shall keep minutes of meetings and inform the Board of its activities.
- (8) An officer of the Authority designated by the Executive Director shall act as secretary to a committee and shall, on the instructions of the chairman of that committee, convene meetings of that committee.
- (9) Save as otherwise provided in this section, the provisions of [section 8](#) relating to the meetings of the Board shall apply, *mutatis mutandis*, to the meetings of a committee.

## 17. Designation of Resource Centres

- (1) The Board may, by notice in writing, designate any technical education and training institution to be a technical education and training Resource Centre.
- (2) A Resource Centre designated pursuant to subsection (1) shall serve as a satellite centre for technical education and training services within the catchment area, and shall perform such other functions as may be assigned to it by the Board, from time to time.

## Part V – Management

### 18. Appointment of Executive Director

- (1) There shall be an Executive Director of the Authority (in this Act otherwise referred to as the “Executive Director”) who shall be appointed by the Board on such terms and conditions of service as the Board shall determine.
- (2) The appointment and terms and conditions of service of the Executive Director shall be subject to approval by the Minister.
- (3) The Executive Director shall be the chief executive officer of the Authority and, subject to the general supervision and control of the Board, shall be responsible for—
  - (a) the management of the day to day operations of the Authority;
  - (b) the management of the funds, property and business of the Authority;
  - (c) the administration, organization and control of the other officers and staff of the Authority; and
  - (d) the effective administration and implementation of the provisions of this Act.
- (4) The Executive Director shall, subject to subsection (5), hold office for a period of four years, and shall be eligible for re-appointment.
- (5) The Board may, subject to the approval of the Minister, terminate appointment of the Executive Director for—
  - (a) misconduct or misbehavior; or
  - (b) inability, incapacity or incompetence to perform the duties of his office.
- (6) The Executive Director shall devote his full time to the duties of office and shall not, without the prior approval of the Board, hold any office of trust or profit, other than that of the Executive Director, or engage in any occupation for reward outside the office of Executive Director.
- (7) The Executive Director or, in his absence such other officer of the Authority as the Executive Director may designate in writing, shall attend meetings of the Board, but shall not vote on any matter:

Provided that the person presiding at any meeting may, for good cause, require the Executive Director or such other officer to withdraw from the meeting.
- (8) The Executive Director shall, on the instructions of the Chairman, convene meetings of the Board; and the Executive Director or an officer of the Authority duly designated by the Executive Director shall be secretary to the Board.

### 19. Appointment of other officers and staff

The Executive Director may, on such terms and conditions as the Board may determine, appoint such other officers and staff of the Authority, subordinate to the Executive Director, as may be required for performance of the functions of the Authority.

## Part VI – Technical, Entrepreneurial and Vocational Education and Training Payroll-Levy

### 20. Technical Entrepreneurial and Vocational Education and Training Payroll-Levy

- (1) Subject to the provisions of this Part, there shall be charged and levied on every employer, and payable into the Fund, at the beginning of every year, a payroll-levy to be known as the Technical, Entrepreneurial and Vocational Education and Training Payroll-Levy (in this Act otherwise referred to as the “levy”).
- (2) The levy shall be the sum of money equal to two per cent of the basic payroll of an employer in respect of the previous year:  
  
Provided that in the case of the Government the levy shall be one percent of the basic payroll.
- (3) The Minister may, on the recommendation of the Authority, by Order published in the *Gazette* revise the rate of levy prescribed in subsection (2).
- (4) The levy may be paid in monthly instalments of up to twelve months and, where the Authority notifies an employer that the levy is due, payment shall be made within thirty days of the notification to the employer by the Authority.
- (5) Where in any case the basic payroll of an employer cannot be ascertained with any reasonable accuracy, the Executive Director may, in writing, require the employer to pay a levy of such amount as the Executive Director may specify, and the employer shall pay the levy so specified within the time specified by the Executive Director.
- (6) Any levy imposed and paid pursuant to this Act, shall be deductible for the purpose of ascertaining the taxable income of the employer in accordance with the Taxation Act.

[Cap 41:01]

### 21. Penalty upon failure to pay levy

- (1) Where an employer who is under this Act liable to pay a levy fails to pay the whole or any part of such levy in accordance with [section 20](#) (4), an additional sum equal to twenty per cent of the unpaid levy shall become due and be payable by such employer by way of penalty.
- (2) Any sum payable by way of penalty under this section shall, for the purposes of this Act, be deemed to be a levy and shall be collected and recoverable accordingly.

### 22. Summary recover of unpaid levy, etc.

- (1) Any levy or penalty payable by an employer under provisions of this Act shall be a debt due to the Authority and may be recovered from such employer as a civil debt by way of a summary suit at the instance of the Executive Director or any person authorized by the Executive Director in that behalf.
- (2) Without prejudice to the method of recovery of levy and penalties prescribed by subsection (1), where any amount of levy or penalty is due from any employer, the Executive Director may file in a court of a resident magistrate having jurisdiction over the area in which employer resides or carries on business, a certificate stating—
  - (a) the name and address of the employer from whom the levy is due; and
  - (b) the amount due.
- (3) A certificate filed under this section shall be deemed to be a judgment of the court against the person named in the certificate for payment by such person to the Authority of the amount stated in the certificate together with interest thereon at twenty *per centum* per month from the date on

which such certificate is filed until the date of payment, and every such judgment may be executed in the same manner as a judgment passed by a court of a resident magistrate in a civil suit.

- (4) Subsections (2) and (3) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.
- (5) Every certificate filed in a court of a resident magistrate pursuant subsection (2) shall be *prima facie* evidence of the truth of the statements contained in such certificate.

### 23. Exemption from levy

The Minister may, on the recommendation of the Authority and by Order published in the *Gazette*, exempt any employer from the provisions of [section 20](#).

### 24. Collection of levy

- (1) The levy payable under this Act may be paid directly to the Authority, or collected on behalf of the Authority, by such other agency as the Authority may, subject to the approval of the Minister, designate by Order published in the *Gazette*.
- (2) The Minister may, on the advice of the Authority, make regulations relating to the collection of levy.

### 25. Maintenance of basic payroll by employers

- (1) Every employer shall keep and maintain, at his principal place of business in Malawi, an up-to-date record of a basic pay-roll in the prescribed form, of all employees in his employment, and such record shall at all reasonable times be available for inspection by an inspector or other officer authorized in that behalf by the Authority.
- (2) Where any employer fails to maintain a basic payroll required by subsection (1), the Authority may make its own estimate of the basic payroll of the employer during the relevant period of twelve months, and such estimate shall be deemed to be the basic payroll of such employer for such period for the purposes of this Act.

### 26. False information, etc., to evade levy

Any person who, with intent to evade payment of any levy or any penalty due under this Act—

- (a) makes any false statement to the Executive Director; or
- (b) fails or omits to give any information, or to maintain a basic payroll required to be maintained under this Act or under regulations made under this Act; or
- (c) gives any information or maintain a basic payroll which is false in any material particular,

shall be guilty of an offence and shall be liable to a fine of K50,000 and to imprisonment for three years or to both such fine and imprisonment.

### 27. Designation of inspectors

- (1) There shall be inspectors for the purposes of the administration of this Part and of the Fund, who shall be designated as such in writing by the Executive Director.
- (2) Any person who obstructs or hinders an inspector in the performance of his duties under this Act shall be guilty of an offence and liable to a fine of K 10,000 and to imprisonment for one year.

## Part VII – Establishment of Technical, Entrepreneurial and Vocational Education and Training Fund

### 28. Establishment of Technical, Entrepreneurial and Vocational Education and Training Fund

- (1) There is hereby established a fund to be known as the Technical, Entrepreneurial and Vocational Education and Training Fund (in this Act otherwise referred to as the “Fund”), which shall be administered and managed by the Authority.
- (2) The Fund shall be administered for the purposes of this Act in accordance with policies and procedures determined by the Board.
- (3) Without prejudice to subsection (2), the Fund will be used to finance—
  - (a) approved technical education and training programmes;
  - (b) special programmes to support the technical education and training system;
  - (c) user-fee subsidization through scholarships, grants and loans in accordance with priorities determined by the Board;
  - (d) incentives to employers to directly invest in technical education and training;
  - (e) an endowment fund to support technical education and training; and
  - (f) governance and management structures of the technical education and training system.

### 29. Resources of the Fund

The resources of the Fund shall comprise—

- (a) all assets currently composing the Industrial Training Fund established under the Industrial Training Act repealed by [section 38](#);
- (b) such sums as may be paid as levy pursuant to Part VI;
- (c) such sums as may be appropriated by Parliament to the Authority for purposes of the Fund; and
- (d) such sums as may be paid to the Authority for purposes of the Fund by way of grants or donations from any source within or outside Malawi.

### 30. Management and auditing of the Fund

- (1) The authority shall maintain, with such bank as the Board may determine, a designated account into which shall be paid the levy and all the other money payable into the Fund.
- (2) The Authority shall cause to be kept proper books of accounts of the payments made into and out of the Fund.
- (3) The accounts relating to the Fund shall be—
  - (a) audited annually by independent auditors appointed by the Board; and
  - (b) examined by the Auditor General before being presented to the Minister in accordance with [section 33](#).



## Part VIII – Financial provisions

### 31. Funds of the Authority

- (1) The funds of the Authority shall consist of—
  - (a) such moneys as may be appropriated by Parliament for the purposes of the Authority;
  - (b) registration and accreditation fees prescribed in accordance with rules made by the Board under [section 11](#);
  - (c) such moneys as may be received by the Authority under subsection (2); and
  - (d) such moneys as may otherwise vest in or accrue to the Authority.
- (2) The Authority may—
  - (a) accept money by way of grants or donations from any source in or outside Malawi;
  - (b) in the approval of the Minister, raise by way of loans from any source in or outside Malawi, such money as it may require for the discharge of its functions; and
  - (c) charge and collect fees in respect of programmes, publications, seminars, documents, consultancy services and other services provided by the Authority.
- (3) Any funds received by the Authority in respect of a financial year which are not expended by the end of that financial year shall be placed in a reserve fund to be expended, subject to the budget of the Authority, during the ensuing financial year.
- (4) The Authority may invest in such manner as it thinks fit, such of its funds as it does not immediately require for the performance of its functions.

### 32. Books and other records of accounts and audit

- (1) The Authority shall cause to be kept proper books of accounts and other records relating to its accounts.
- (2) The accounts of the Authority shall—
  - (a) be audited annually by independent auditors appointed by the Authority; and
  - (b) be examined by the Auditor General before being presented to the Minister in accordance with [section 33](#).

### 33. Annual reports

- (1) The Authority shall as soon as practicable, but not later than three months after the expiry of each financial year, submit to the Minister a report concerning its activities during that financial year.
- (2) The report referred to in subsection (1) shall be in such form as the Minister shall approve, and shall include information on the financial affairs of the Authority and of the Fund, and there shall be appended to the report—
  - (a) an audited balance sheet;
  - (b) an audited statement of income and expenditure; and
  - (c) such other information relating to the Authority and the Fund as the Board may consider appropriate or as the Minister may require.

- (3) The Minister shall, during the meeting of the National Assembly next following receipt by him of the report referred to in subsection (1), lay the report before the National Assembly, and the Authority may publish the report for sale to the public.

#### **34. Financial year**

The financial year of the Authority shall be a period of twelve months commencing on 1st July in each year, and ending on 30th June in the following year, or such other dates the Minister may specify by Order published in the *Gazette*.

Provided that the first financial year of the Authority may be such shorter or longer period than twelve months as the Minister shall determine, but being not less than six months nor more than eighteen months.

### **Part IX – Miscellaneous provisions**

#### **35. Exemption from personal liability**

No member of the Board, the Technical Qualification Committee or any committee of the Board, or an employee of the Authority shall, in his personal capacity be liable in civil or criminal proceedings in respect of any act or omission done in good faith in the performance of his duties or functions under this Act.

#### **36. Regulations**

The Minister may, on the advice of the Authority, make regulations for carrying into effect the provisions of this Act.

### **Part X – Transitional provisions**

#### **37. Vesting of liabilities, etc.**

- (1) All property, except any such property as the Minister may determine by notice published in the *Gazette*, which immediately before the commencement of this Act was vested in the Government for the use of the Industrial Training Unit in the Ministry of Labour and Vocational Training for purposes of the Apprenticeship Act and the Industrial Training Act, repealed by [section 38](#), shall, on the commencement of this Act, and without further assurance, vest in the Authority, subject to all interests, liabilities, charges, obligations and trusts affecting such property.
- (2) Except as otherwise provided in subsection (1) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Industrial Training Unit in the Ministry of Labour and Vocational Training before the commencement of this Act shall remain vested in the Government and may be enforced by or against the government.
- (3) All legal proceedings and claims which before the commencement of this Act are pending in respect of revenue to which the Apprenticeship Act and Industrial Training Act, repealed by [section 38](#) apply, shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced before the commencement of this Act.
- (4) Unless the board otherwise determines, all persons who before commencement of this Act are employed by the Government for the purposes of the Apprenticeship Act and the Industrial Training Act, repealed by [section 38](#), shall on the commencement of this Act, be deemed to be on secondment to the Authority until they are employed in the service of the Authority in accordance with this Act or their secondment with the Authority otherwise ceases in accordance with the terms of the secondment.

### 38. Repeal and savings

- (1) Subject to subsections (2) and (3), the Apprenticeship Act and the Industrial Training Act are repealed.
- (2) Every contract of apprenticeship and every training scheme undertaken under the Apprenticeship Act and the Industrial Training Act, repealed by subsection (1), existing immediately before the commencement of this Act, shall continue in force and be executed until completion as if this Act had not been passed.
- (3) Any subsidiary legislation made under the Apprenticeship Act and the Industrial Training Act, repealed by subsection (1), in force immediately before the commencement of this Act—
  - (a) shall remain in force, unless in conflict with this Act, and shall be deemed to be subsidiary legislation made under this Act; and
  - (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.

*[Cap. 55:06]*