Government Notice No. 42

MALAWI ENGINEERING INSTITUTION ACT

(No. 13 of 2019)

MALAWI ENGINEERING INSTITUTION (REGISTRATION AND DISCIPLINE) REGULATIONS, 2021

IN EXERCISE of the powers conferred by section 65 of the Malawi Engineering Institution Act, 2019, I, NANCY CHAOLA MDOOKO, Deputy Minister of Transport and Public Works, on the recommendation of the Institution, make the following Regulations—

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PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Malawi Engineering Institution (Registration and Discipline) Regulations, 2021.

PART II—REGISTRATION

Procedure for registration

2.—(1) An application for registration under the Act shall comply with these Regulations.

(2) An applicant making an application for registration under the Act shall specify, in his application, the class of membership in which he seeks to be registered into.

(3) The applicant shall complete and sign an appropriate form set out in the *First Schedule* hereto.

(4) An application made under this regulation shall be submitted to the Registration Council through the Registrar, accompanied by an application fee as prescribed under Part I of the *Second Schedule* hereto.

Documents in support of application

3. An application for registration under the Act shall be supported by—

(*a*) a statutory declaration made by the applicant in the form set out in the *Third Schedule* hereto;

(*b*) certified copies of any degrees, postgraduate diplomas or certificates on which the applicant relies on as qualifications for registration;

(*c*) in the case of an applicant for registration whose name has changed since the grant of his qualification, the legal document which provides evidence of such change of name; and

(*d*) a copy of the national identification document.

Acceptance or refusal of registration

4.—(1) The Registration Council shall, once it receives the application form, review the application to ensure that it satisfies the minimum requirements of the class of membership to which it relates.

(2) In considering whether the applicant meets the minimum requirements, the Registration Council shall take into account the applicant's—

(*a*) physical or mental health;

(*b*) professional track record; and

(*c*) prior misconduct.

(3) Where the application fails to meet the minimum requirements, the Registration Council shall inform the applicant of the failure of the application to meet the minimum requirements and the grounds therefor.

(4) An applicant shall be afforded an opportunity to be heard in support of his application.

(5) Where the Registration Council is satisfied that the application meets the minimum requirements in the class of membership applied for, it shall recommend to the Board that the applicant should take the relevant engineering qualifying examination within a specified period.

(6) Where the applicant passes the examination referred to under subregulation (5), the Registration Council shall, upon approval of the Board, issue to the applicant a registration certificate in the form prescribed in the *Fourth Schedule* hereto:

Provided that any person qualifying for registration for the class of professional engineer and above, the person shall take an oath provided for at the back of the certificate before a commissioner for oaths.

(7) Where the applicant fails the engineering qualifying examinations, the Registration Council shall advise the applicant accordingly and inform him of his right to take the examination one more time.

(8) Where the applicant qualifies for registration into a particular class of membership, the applicant shall be entitled to use the description of that class of membership as prescribed in the *Fifth Schedule* hereto.

Registration fees

5.—(1) A person registered under the Act shall pay the fees prescribed under Part II of the *Second Schedule* hereto for services listed under that Part.

(2) A fee for registration under this Act shall not be refundable and shall be payable not later than 31st December of each year.

(3) Where the fee for registration or any part thereof remains unpaid for more than thirty days after the due date, a penalty of fifty per cent of the amount due shall be imposed and shall become part of the amount due and payable.

(4) There shall be no reduction, proportionate or otherwise, in the amount of the fee payable even if the remaining period to the next 31st December from the date of registration or from the date of payment of the amount due is less than twelve months.

List of registered persons

6. The Registrar shall, soon after 1st January of each year, publish, in the *Gazette*, a copy of the register containing a list and categories of all persons registered under the Act, as prescribed in the *Sixth Schedule* hereto.

Notification of change of address

7. Every person registered under this Act shall notify the Registrar of any change in his business or correspondence address, as the case may be, within fourteen days of the change.

Primary obligations of persons registered under the Act

8. A person registered under this Act shall—

(*a*) conduct himself in such a manner as to uphold the reputation of the profession;

(*b*) discharge his duties with fairness and impartiality to the public, his employer and clients with efficiency, competence and confidentiality, without undue delay;

(*c*) exercise care in the performance of his duties, including adherence to workplace safety obligations and responsibilities; and

(*d*) not engage in conduct involving dishonesty, fraud, deceit, corruption or misrepresentation.

Competence and other considerations

9. A person registered under this Act shall—

(*a*) only undertake work for the execution of which his training and experience have rendered him competent and employ only adequately qualified personnel as demanded by the task for which he is employed;

(*b*) maintain, develop and employ appropriate levels of knowledge and skills for the task for which he is employed;

(*c*) refrain from, either personally or through the agency of another person, whether or not such person is in his employment, making or offering to make by way of commission or otherwise, payment or other consideration for the obtaining of professional employment;

(*d*) not misrepresent data or its relative significance in any report produced by the Institution;

(*e*) not knowingly permit the publication or use of his data, reports, maps, or other professional documents for unlawful purposes;

(*f*) only express professional opinions and make statements that have a basis in fact or experience or accepted principles and on the basis of adequate knowledge and when required to give evidence with fairness and honesty without prejudice or discrimination;

(*g*) be fair and impartial in the provision of advice and judgement to an employer or any other party to an engineering assignment in which he is involved;

(*h*) attribute proper credit to others for their professional work or professional contribution and not misappropriate the professional work of others;

(*i*) not claim as his own, or suppress, work carried out and recommendations made by any other engineer nor alter work done by another engineer in such a way as to distort the latter's professional opinion;

(*j*) not undertake any duties or carry out any instructions of an employer or supervisor which involve making statements purporting to be his own but which are contrary to his *bona fide* professional opinion, and not to instruct any other engineer to do so;

(*k*) undertake to notify another engineer where, to his knowledge, the other engineer has prior appointment relating to any work he is being approached for possible appointment;

(*l*) not act in a professional capacity for a public body without notifying, as a matter of courtesy, the most senior engineer or head of that public body;

(*m*) be modest in scale and frequency, when advertising for his professional work as an engineer;

(*n*) not undercut when charging his clients; or

(*o*) not, in undertaking his professional activities, discriminate on any ground.

Avoidance of unfair competition

10. A person registered under the Act shall build his reputation based on merit and shall refrain from any form of unfair competition, including—

(*a*) use of a professional designation to which he has no entitlement;

(*b*) the offer of inducements to secure work or advancement;

(*c*) the undermining of another person registered under the Act with prior appointment relating to any work; or

(*d*) breach of the regulatory framework of engineering.

Conflict of interest

11.— (1) A person registered under the Act shall not—

(*a*) hold, assume, accept or retain a position in which his interest is in conflict with his professional duty;

(*b*) undertake paid professional work from any authority or organization of whose governing body he is a member;

(*c*) act in circumstances where there is a potential conflict between his own private interest and the interest of his client or public interest; or

(*d*) undertake any work which gives rise to any conflict of interest between his clients, including public clients, unless otherwise agreed by the clients:

Provided that where a person registered under the Act is aware of a conflict or potential conflict of interest, he shall inform the client of the interest and obtain the consent of the client, in writing, to proceed.

(2) A person registered under the Act who undertakes engineering work on behalf of a client shall not, until that engagement has been terminated, undertake work for, or on behalf of, any other client if by doing so the interests of either client would be in any way prejudiced or the ability of the engineer to act in the interests of either client would be in any way impaired.

(3) A person registered under the Act may, only in exceptional circumstances, such as where the registered person alone possesses the required expertise, act where a potential conflict of interest exists or may arise and prior to accepting any such engagement, the person registered under the Act shall disclose the relevant details to the client or clients concerned.

(4) A person registered under the Act shall disclose to his employer or client any gift, commission or discount he may have received from or offered

by a third party in connection with his professional work, and he shall not accept any such gift, commission or discount where their receipt may or may be perceived to, influence his advice.

Disclosure of confidential information permitted in some circumstances

12.—(1) A person registered under the Act shall treat all information of a client as confidential.

(2) A person registered under the Act has the duty to ensure that no person misuses information of a client.

(3) A person registered under the Act shall not use, for his own benefit, information of a client.

(4) A person registered under the Act may disclose otherwise confidential information belonging to a client in order to comply with the law including—

(*a*) where required to do so by a competent court of law;

(*b*) a meeting of an engineering committee or a meeting under the Act; or

(*c*) where required to do so in accordance with a provision of any written law.

PART IV—DISCIPLINE

Inquiry into misconduct

13.—(1) Subject to section 49 of the Act, the Disciplinary Committee shall inquire into any act or omission amounting to professional misconduct of a registered person:

Provided that the Disciplinary Committee may, on its own, inquire into an act or omission amounting to professional misconduct.

(2) The Disciplinary Committee shall finalize the inquiry under subregulation (1) within sixty days.

(3) The Institution, on the recommendation of the Disciplinary Committee, may, if the Disciplinary Committee finds a person guilty of misconduct, mete out a sanction as provided under section 52 (4) of the Act.

Application to all persons registered under the Act

14. Every person registered under the Act shall be subject to the jurisdiction of the Disciplinary Committee on matters of discipline.

Powers of Disciplinary Committee

15. In addition to the powers under section 48 of the Act, the Disciplinary Committee shall have the power to—

(*a*) receive complaints referred to it, as the case may be;

(*b*) investigate all complaints brought before it;

(*c*) conduct hearings on disciplinary matters; and

(*d*) recommend, to the Institution, the imposition of any penalty specified under section 52 (4) of the Act.

Minutes of meetings of Disciplinary Committee

16. The Disciplinary Committee shall keep the minutes of all its meetings.

Tenure and vacancy for Disciplinary Committee

17.—(1) A person appointed to the Disciplinary Committee shall hold office for a period of three years, unless he—

(*a*) sooner resigns;

(*b*) is removed from office; or

(*c*) ceases to have the qualification necessary as a prerequisite to appointment.

(2) A member of the Disciplinary Committee may be removed from office on grounds of—

(*a*) physical or mental incapacity;

(*b*) misconduct;

(*c*) bankruptcy;

(*d*) absence, without valid excuse, from two consecutive meetings of the Disciplinary Committee of which he has had notice; or

(*e*) conviction for an offence punishable with a term of imprisonment without an option of a fine.

(3) In case of a vacancy in the membership of the Disciplinary Committee, the vacancy shall, where the vacancy is occasioned by a person elected by the Institution, be filled by a person elected by the Institution to replace him, until the expiry of the period from the date of appointment of the Disciplinary Committee:

Provided that if the remaining period is less than six months, the vacancy may not be filled until the expiry of the period.

Proceedings of Disciplinary Committee

18.—(1) Subject to section 48 of the Act, the Disciplinary Committee shall regulate its own procedure.

(2) The Disciplinary Committee may make rules for regulating the making, hearing and determination of applications or complaints under this Part.

(3) The Disciplinary Committee shall meet for the transaction of business at a time and at a place determined by the chairperson.

(4) At any meeting of the Disciplinary Committee, members shall, in the absence of the chairperson, elect one of their number, to act as chairperson.

Time limits

19.—(1) The Disciplinary Committee shall dispose of any matter before it within ninety days.

(2) The Disciplinary Committee may, upon giving good and justifiable reasons, extend the period for disposing of any matter for a period not exceeding thirty days.

(3) The Disciplinary Committee shall, upon reaching a decision on a matter before it, inform the complainant of its decision within seven days of the decision.

(4) Where the Disciplinary Committee fails to dispose of a complaint within the time limit specified under this section, a complainant may refer the matter to the president of the Institution.

Publication of names of de-registered or suspended persons

20. The Institution shall publish, in the *Gazette* and in at least two newspapers with the widest circulation, names of persons registered under the Act whose names have been removed from the Register or have been suspended and, in the case of suspension, the period of suspension.

Re-registration

21.—(1) A person registered under the Act whose name is removed from the Register may, after the expiry of five years, apply to the Council for re-registration to practice.

(2) On receipt of an application for re-registration, the Council may—

(*a*) re-admit the applicant;

(*b*) refuse to re-admit the applicant; or

(*c*) order that the applicant shall not be re-admitted unless the applicant—

(i) enrolls at the Institution and successfully passes the examination for the category of engineering he intends to practice under;

(ii) is supervised by an engineer of not less than ten years standing for a period not exceeding one year; or

(iii) restitutes any money or property, which is the subject of the de-registration.

Disclosure of interest

22.—(1) If a member of the Disciplinary Committee established under this Part is present at a meeting of a committee at which any matter which is the subject of consideration is a matter in which the member or his immediate family member or his professional or business partner is directly or indirectly interested in a private or professional capacity, he shall, as soon as is practicable, after the commencement of the meeting, disclose his interest.

(2) Unless the Disciplinary Committee otherwise directs, the member referred to in subsection (1), shall not take part in any consideration or discussion of, or vote on, any question touching on the matter.

(3) A disclosure of interest shall be recorded in the minutes of the meeting at which it is made.

Evidence

23.—(1) A person who—

(*a*) is summoned before the Disciplinary Committee under this Part, and

(i) refuses or fails, without justifiable cause, to attend and give evidence relevant to the inquiry at the time and place stated in the summons;

(ii) refuses to be sworn or affirmed; or

(iii) refuses or fails, without justifiable cause, to produce any book,

record, document or thing which he is requested in the summons or otherwise to produce; or

(*b*) appears before the Disciplinary Committee and refuses to answer or to answer fully or satisfactorily to the best of his knowledge and belief any question lawfully put to him,

commits an offence and shall, upon conviction, be liable to a fine of one million Kwacha and imprisonment for six months.

(2) Any person who, at an inquiry under this Part, gives false evidence on oath, knowing his evidence to be false or not knowing or believing it to be true, commits an offence termed perjury and shall, upon conviction, be liable to the relevant penalties provided under the penal code. Cap. 7:01

24. A person registered under the Act against whom a complaint is made and has been brought before the Disciplinary Committee shall be entitled to legal representation and to bring a witness to any hearing. Right to legal representation

25. A member of the Disciplinary Committee shall, on appointment, take an oath of secrecy as prescribed in the *Seventh Schedule* hereto. Oath of secrecy

26. A member of the Disciplinary Committee shall be paid allowances as determined by the Institution. Allowances

FIRST SCHEDULE (reg. 2 (3))

MALAWI ENGINEERING INSTITUTION ACT

APPLICATION FOR REGISTRATION AS.....

To: The Registrar
Malawi Engineering Institution
Engineering Registration Council
P O Box ...
Lilongwe

1. Full names of the applicant: Prof./Dr./Mr./Mrs./Miss

   (*a*) Surname: .....

   (*b*) First names: .....

2. (*a*) Date and Place of Birth: .....

   (*b*) Nationality: .....

3. Sex (Male/Female): .....

4. Marital status: Single ☐ Married ☐ Widowed ☐ Divorced ☐

   Other: .....

5. (*a*) Permanent address: .....

   (*b*) Present employer and address: .....

   .....

   .....

   (*c*) Telephone number: .....

   (*d*) E-mail address: .....

6. Class of membership applied for: .....

7. EDUCATION

(*a*) General education and examination passed with dates.

.....

.....

.....

(*b*) Technical/Professional/Academic Training and Qualifications including particulars of Examination passed with dates.

Engineering Degree	*First*	*Post Grad. or other*
University or College	.....	.....
Country	.....	.....
Duration of Course	.....	.....
Date ewarded	.....	.....
Class	.....	.....

(c) Membership of Institutions or any other professional associations with dates and numbers (institution, class of membership and date elected)

.....

.....

.....

(d) Registered or Licensed to practice as an engineer/allied discipline in other countries

.....

.....

.....

**Copies of certificates should accompany this application*

**Applicants should note that transcripts may be required in some cases.*

8. PUBLICATIONS OR PAPERS WITH DATES

(*a*) .....

(*b*) .....

(*c*) .....

9. WORKING OR PRACTICAL EXPERIENCE IN ENGINEERING:

(*a*) Organization where working/practical experience was acquired

.....

(*b*) Dates of working/practical experience:

.....

(*c*) List of three most important projects/programs involved/undertaken with dates:

(i) .....

(ii) .....

(iii) .....

(*d*) Details of practical experience in urban and regional engineering in not less than 500 words and to be typed separately and attached to this application duly authenticated by the supervisor.

10. PARTICULARS OF POSITIONS HELD (Present and Past)

.....

.....

.....

.....

11. ANY ADDITIONAL RELEVANT INFORMATION (other courses, workshops, e.t.c)

.....

.....

.....

.....

12. DECLARATION BY THE EMPLOYER

To be signed by the Employer/Head of Department of the applicant. Please indicate employer's full name and address:

.....

.....

.....

I, the undersigned do hereby declare that to my personal knowledge, the above statements concerning the applicant are true and correct.

Signature of the Employer/Head of Department: .....

Position held: .....

Address: .....

Date: .....

13. PERSONAL DECLARATION BY APPLICANT

(*a*) .....

I .....

(Name in full, in block letters and underline Surname)

of .....

(Permanent Address)

hereby apply for registration on the Register of Engineers and submit herewith:

(*a*) a prescribed Statutory Declaration in support of the Application;

(*b*) the prescribed application fee of K .....

(*c*) the prescribed registration fee of K .....And

(*d*) the following certified copies of degree professional/diploma/certificate(s) in support of my application:

.....

.....

Dated:.....

.....

Signature of Applicant

SECOND SCHEDULE (reg.2(4), 5(1)

PART I

FEES FOR REGISTRATION

Fees payable for registration—

MALAWI ENGINEERING INSTITUTION				
Class of Membership	LOCAL		FOREIGN	
	Registration Fees (Kwacha)	*Annual Fees (Kwacha)*	*Registration Fees (US$)*	*Annual Fees (US$)*
Fellow	150,000.00	230,000.00	600.00	1,000.00
Professional Engineer	120,000.00	150,000.00	500.00	1,000.00
Associate Engineer	90,000.00	120,000.00	300.00	500.00
Graduate Engineer	40,000.00	60,000.00	200.00	200.00
Student Engineer	1,000.00	2,000.00	30.00	50.00
Technologist	50,000.00	100,000.00	200.00	350.00
Technician Engineer	20,000.00	45,000.00		
Trainee Technician Engineer	15,000.00	30,000.00		
Engineering Technician	15,000.00	30,000.00		
Trainee Engineering Technician	7,500.00	15,000.00		
Craftsperson	7,500.00	15,000.00		
Corporate Member	250,000.00	560,000.00	3,000.00	4,000.00

PART II

MISCELLANEOUS COSTS

	Description	*Cost*
1	Renewal of Registration Certificate	Two-thirds of registration fees
2	Replacement of lost Registration Certificate	Half of registration certificate cost
3	Examination fees	
	(*a*) for applicants who are nationals of Malawi (per subject)	K50,000 00
	(*b*) for applicants who are non-nationals of Malawi (per subject)	US$100 00

THIRD SCHEDULE (reg. 3 (a))

MALAWI ENGINEERING INSTITUTION ACT

STATUTORY DECLARATION

I ..... do solemnly and sincerely declare as follows:

1. THAT I am the holder of the following degrees, diplomas or certificates granted to me after examination by a university, college, professional institution, or other examining authority, and that the courses of study in the professional subjects with respect to which the degrees, diplomas or certificates which I hold were granted covered the following periods:

University, College, or other Institution	Period		Degree, Diploma or Certificate	Examining Authority
	From	To		
1.				
2.				
3.				
4.				

2. THAT I have completed the following additional courses of training and had the following experience in the practice of my profession, namely:

Description of Training or Experience	Period	
	From	To

3. THAT as far as my professional qualifications are concerned, I am entitled to practice my profession in Malawi and in the country in which my professional qualifications were granted.

4. THAT—

(*a*) I have never been suspended or expelled from practicing my profession in Malawi or any other country on the grounds of professional misconduct; and

(*b*) my name has never been removed from any register of engineers or members of my profession kept in accordance with the Laws of Malawi or of any country in which I have practiced my profession; and

(*c*) no inquiry is pending which may result in an action being taken which is referred to in subparagraph (*a*) or (*b*).

5. THAT I hereby solemnly and sincerely declare that the information I have given above is true in every respect to the best of my knowledge and belief.

6. THAT I have read the Act and the regulations made thereunder and understand that, if registered, I shall be bound thereby and by any amendments thereto, for as long as my name shall remain on the register.

7. THAT I undertake, if registered, to abide and uphold the aims and objectives of the Malawi Engineering Institution.

AND I make this solemn declaration conscientiously believing the same to be true.

.....
Signature

DECLARED at.....this day of.....20....

Before me:

.....
Signature of Attesting Authority

.....
Capacity of Attesting Authority (e.g. Notary Public, Commissioner for Oaths, etc.)

NOTE: This declaration, if made—

(a) in Malawi, must be made under the Oaths, Affirmations and Declarations Act (Cap. 4:07);

(b) in any other country of the Commonwealth, must be made before a Notary Public, Commissioner for Oaths or other person having authority in that country under any law for the time being in force to take or receive an oath, an affirmation or a declaration; and

(c) in any other place, must be made before a Malawian consul or vice-consul or before any person having authority under any Act of Parliament of the Laws of Malawi for the time being in force to take or receive an oath, affirmation or a declaration.

FOURTH SCHEDULE (reg. 4 (6))

MALAWI ENGINEERING INSTITUTION ACT

CERTIFICATE OF REGISTRATION

REGISTRATION CERTIFICATE No.: .....

This is to certify that ..... (*Name*) has this ..... day of ....., 20..... satisfied the requirements of ..... (*Class of membership*) and is registered in the Register of Malawi Engineering Institution as a ..... under the Malawi Engineering Institution Act and the Regulations made thereunder.

.....
President

(COMMON SEAL)

.....
Registrar
Malawi Engineering Institution

FIFTH SCHEDULE (reg. 4 (8))

DESCRIPTION OF CLASSES OF MEMBERSHIP

1. *Ordinary classes of membership*

(1) A fellow.

(2) A professional engineer.

(3) An associate engineer.

(4) A graduate engineer.

(5) A technologist.

(6) A technician engineer.

(7) An engineering technician.

(8) A craftsman.

2. *Special classes of membership.*

(1) A corporate member.

(2) An honorary fellow

SIXTH SCHEDULE (reg. 6)

MALAWI ENGINEERING INSTITUTION ACT

REGISTER OF (NATIONAL) ENGINEERS

Name of Registered person	*Date of Registration*	*Registration Number*	*Expiry Date*	*Address*	*Nationality*	*Date*	*Qualificatons*		*University College School or other institution if any*	*Date of cancellation of registration if any*	*Fee paid, number and date of receipt*	*Remarks if any*
							Upon registration	*Subseguent to registration*				

*(*Delete whatever is not applicable)*

SEVENTH SCHEDULE (reg. 25)

OATH/AFFIRMATION OF SECRECY

I, ..., being a member of the Disciplinary Committee, do hereby swear/affirm that I will freely without fear or favour, affection or ill will, discharge the functions of a member of the Disciplinary Committee, and that I will not, directly or indirectly, reveal any matters related to such functions to any unauthorized person or otherwise than in the course of my duty.

SWORN at ..... this ..... day of ....., 20 ...

Signature: .....

Before:.....
Commissioner for Oaths

Made this 4th day of August, 2021

N. C. MDOOKO
Deputy Minister of Transport and Public Works

(FILE NO.: ADMIN2/1)