

MALAWI GOVERNMENT

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Act

No. 13 of 2019

I assent

PROF. ARTHUR PETER MUTHARIKA
PRESIDENT
29th April, 2019

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An Act to establish the Malawi Engineering Institution as the authority of the engineering profession for qualifications, registration and discipline; establishment of the Malawi Engineering Institution and the Engineering Registration Council; to provide for the regulation, registration, promotion and development of the profession of engineering in Malaŵi; and to provide for matters connected therewith and incidental thereto

ENACTED by the Parliament of Malaŵi as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Malawi Engineering Institution Act, 2019, and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Short title and commencement

Interpretation

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

“allied discipline” means a discipline or profession as prescribed by the Institution;

“accredited educational institution” means any university, institution, college or school of engineering or other educational establishment accredited by the National Council for Higher Education in accordance with the National Council for Higher Education Act with the approval of the Institution;

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“approved employment” means employment which is within the prescribed engineering work or activity constituting the practice of engineering under section 26 (8) 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;

“Board” means the Board of the Institution established under section 4;

“corporate member” means a legal person or a division thereof accorded such membership under section 39;

“craftsperson” means a person registered as a craftsperson under section 38;

“Current Register” means the part of the Register of registered members as designated under section 26 (6);

“Disciplinary Committee” means the Disciplinary Committee of the Institution constituted under section 47;

“engineering” means the doing or performing of any prescribed engineering work or activity constituting the practice of engineering under section 26 (8) 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;

“engineering appointments” means appointments required under section 64 to be taken by persons registered under this Act as professional engineers, technologists, technician engineers, engineering technicians and craftspersons;

“engineering technician” means a person registered as an engineering technician under section 36;

“financial year” means the period commencing on the date of commencement of this Act and ending on the following 30th June, and thereafter the period of twelve months from 1st July of one year to 30th June of each following year;

“Institution” means the Malawi Engineering Institution established under section 3;

“Main Register” means the part of the Register of Registered Members designated as Main Register under section 26 (6);

“prescribed engineering work or activity” means any engineering work or activity prescribed as the practice of engineering pursuant to section 26(8) 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;

“professional engineer” means a person registered as a professional engineer under section 29;

“register” means a register of members of the engineering profession as the case may be, maintained by the Board pursuant to section 26;

“registered member” means a person registered under this Act;

“Registered mentor” means a person selected and registered by the Board for the purpose of mentoring graduate engineers in accordance with section 42;

“Registrar” means the chief executive officer of the Institution, as designated under section 13;

“Registration Council” means the Engineering Registration Council provided for under section 19;

“technician engineer” means a person registered as a technician engineer under section 34;

“technologist” means a person registered as a technologist under section 33;

“trainee engineering technician” means a person registered as a trainee engineering technician under section 37; and

“trainee technician engineer” means a person registered as trainee technician engineer under section 35.

PART II—THE MALAWI ENGINEERING INSTITUTION

3. There is hereby established an Institution to be known as the Malawi Engineering Institution (in this Act, referred to as the “Institution”) which shall—

Establishment
of
Malawi
Engineering
Institution

(a) be a body corporate, with perpetual succession and a common seal; and

(b) be capable of doing all things and acts which may lawfully be done or performed by a body corporate.

Board of
Malawi
Engineering
Institution

4.—(1) There is hereby established a Board of the Institution which shall be responsible for the management and control of the affairs of the Institution.

(2) The Board of the Institution shall consist of the following members—

(a) members of the Board of the Institution elected under section 5;

(b) chairperson of the Engineering Registration Council appointed under section 19;

(c) chairpersons of the Divisions of the Institution;

(d) chairpersons of the Branches of the Institution;

(e) a co-opted individual or representative of organizations recognized by the Institution, upon nomination by the head of those organizations;

(f) a dean of faculty of engineering of a public institution of higher learning offering engineering or an allied discipline recognized by the Institution;

(g) the chairperson of an association of consulting engineers in Malaŵi; and

(h) the Secretary responsible for public and infrastructure works and development.

(3) The term of office of any member, other than a member appointed under subsection (2) (f) and (h), shall be three years and the member shall be eligible for re-election for one further term.

(4) The Registrar shall be the secretary of the Institution.

Election to
the Board of
Institution

5.—(1) The Institution shall, at an annual general meeting, elect, among members of the Institution, persons to hold office on the Board of the Institution.

(2) The Institution shall designate among the elected members, a president and the vice president of the Institution.

Tenure and
vacancy

6.—(1) A vacancy on the Board of the Institution shall occur if a member—

(a) dies;

(b) is adjudged or declared bankrupt;

(c) is convicted and sentenced for an offence against any written law to a term of imprisonment without the option of a fine;

(d) fails, without good and justifiable reasons, to attend three consecutive meetings of the Board of the Institution of which he had notice;

(e) is certified by a medical practitioner to be incapacitated by reason of physical or mental disability;

(f) resigns in accordance with subsection (2);

(g) if a situation arises that if the person was not appointed, would have disqualified him from being appointed as a member of the Board of the Institution.

(2) A member of the Institution elected or appointed into office under this Act may, at any time, resign his office by giving one month written notice to the Institution.

(3) A member elected or appointed into office under this Act may be removed by the Institution on any of the following grounds—

(a) misconduct that brings the office of the member into disrepute;

(b) incompetence in the execution of the functions of his office as a member of the Institution;

(c) in circumstances where the member is compromised to the extent that his ability to impartially and effectively exercise the duties of his office is seriously in question.

(4) A vacancy in the membership of the Institution shall be filled by the appointment of a new member by the Institution.

(5) A person appointed to fill a vacancy shall serve for the remainder of the term of office but no person may be appointed to fill a vacancy of the remainder of a term of office where the remainder of the term is less than six months.

(6) The period served by a person appointed under subsection (4) shall not be regarded as a term for the purposes of section 4 (3).

(7) A vacancy in the membership of the Institution shall not affect its decisions, the performance of its functions or the exercise of its powers under this Act or any other written law.

7.—(1) The Institution shall be the sole authority for regulation of engineering and the engineering profession and allied disciplines in Malaŵi.

Functions of
Institution

(2) Notwithstanding the generality of subsection (1), the functions of the Institution are to—

(a) promote the general advancement of engineering, technology, science and allied disciplines in Malaŵi;

(b) facilitate the continuing acquisition of knowledge by members of the engineering profession;

(c) 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 members of the Institution, in respect of any engineering works, which may be determined by the Institution taking into account the class and extent of the relevant engineering works, the type and extent of the control of the works to be vested in the engineers; the knowledge and experience reasonably required of the engineers to efficiently exercise such control;

(d) maintain a register of mentors deemed by the Institution to be qualified to supervise the post-graduate training of graduate engineers in Malaŵi;

(e) prescribe, from time to time, principles of conduct and ethics to be followed by persons registered under this Act, in the course of their engineering practice as provided under this Act, and further to provide for disciplinary measures and penalties to be taken and enforced by the Institution for any infringement of any prescribed principles;

(f) facilitate the professional development of members of the Institution as may be determined by the Institution;

(g) investigate and monitor national emergencies or disasters or any other matter of public concern caused by, or likely to be caused by, an engineering product or service and recommend appropriate preventive, rehabilitative or other measures;

(h) represent, protect and assist engineering professionals with regard to their conditions of practice, remuneration or otherwise;

(i) engage in formal or informal activities designed to foster and extend the study of engineering, science and technology, and for the benefit of members of the Institution or other persons interested in the profession of engineering, science and technology;

(j) protect and assist the public in Malaŵi on all matters touching, ancillary or incidental to engineering, science and technology; and

(k) do all things as are necessary or incidental to the performance of its functions under this Act or any other written law.

8. The Institution shall have power to—

(a) exercise disciplinary control over the engineering profession and allied disciplines in Malaŵi;

(b) employ administrative or executive staff or other servants or agents for the better administration of the affairs of the Institution;

(c) determine and levy fees of the Institution under this Act;

(d) make provision for the remuneration and other conditions of service of staff of the Institution, including pensions, gratuities, loans and advances and other superannuation benefits;

(e) purchase, lease, or otherwise acquire any property, real or personal, for or in connection with the exercise of any of its powers;

(f) manage, insure, let, sell, alienate, mortgage or otherwise deal with any property of the Institution it may deem necessary or expedient;

(g) for the furtherance of its objects, receive donations or gifts of moneys or other property from any person beneficially or as trustee of any trust established for the furtherance of its objects;

(h) enter into arrangements with engineering qualifying bodies or authorities outside Malaŵi for the mutual correlation of qualifying standards of competence in engineering and for the reciprocal acceptance of qualifications;

(i) prescribe, from time to time, by rules, fees to be paid to the Institution in respect of examinations held or prescribed by the Board for the purposes of this Act;

(j) prescribe, from time to time, by regulation, anything or matter, relating to the qualification of persons for registration, as prescribed under this Act and for which no other prescribing authority is specified;

(k) inspect engineering firms to ensure compliance with this Act; and

(l) subject to sections 7 and 8, do or perform any act necessary to or directed towards the furtherance of its objects.

9.—(1) For the better carrying into effect of its functions, the Board of the Institution may establish such number of committees as may be considered necessary to perform such functions and responsibilities as may be determined by the Board of the Institution.

Committees
of the Board

(2) A committee may consist of either members of the Board of the Institution only or members of the Board of the Institution and other suitably qualified persons other than members of staff of the Institution as the Board of the Institution may consider appropriate.

(3) The Board of the Institution shall appoint the chairperson and deputy chairperson of each committee from only amongst the members of the Board of the Institution.

(4) The provisions of this Act relating to the meetings of members of the Board of the Institution shall apply, with the necessary changes, to the meetings of the committees.

(5) Every committee shall act in accordance with any directions given to it in writing by the Board of the Institution.

Meetings of
the Institution

10.—(1) The Board of the Institution shall meet for the transaction of business at least once every three months at a place and at a time the president may determine.

(2) An annual general meeting of the Institution shall be called by the president which shall be attended by all registered members of the Institution.

(3) At the annual general meeting, the Institution shall—

(a) receive and consider the report of the president of the Board of the Institution;

(b) receive and consider statements of audited accounts of the Institution;

(c) appoint auditors of the Institution for the ensuing year;

(d) consider and approve decisions which the Board of the Institution has referred to it in accordance with the provisions of this Act or regulations made under this Act;

(e) where the term of the Board of the Institution has expired, nominate or elect office bearers in accordance with this Act or regulations made under this Act;

(f) make resolutions on matters affecting the registered members of the Institution; and

(g) transact any other business the Institution considers appropriate.

(4) The president shall, upon giving at least a written notice of twenty-one days to the members, convene an ordinary meeting of the Institution.

(5) The president may, on written request of fifty percent or more members of the Institution and within seven days of the request, cause an extraordinary meeting of the Institution to be summoned at a place and time as the president may appoint.

(6) The president, or in his absence, the vice president shall preside over the meeting of the Institution and in the absence of both

the president and the vice president, the members present and forming a quorum shall elect one of their number, to preside over the meeting of the Institution.

(7) At any meeting of the Institution, half of the membership plus one shall constitute a quorum, and voting on any decisions shall be by simple majority of those present, and the person chairing the meeting shall, where necessary, have a casting vote.

(8) Members of the Institution shall be paid from the funds of the Institution allowances or other benefits as the Institution may, on recommendation from the Board of the Institution, from time to time, approve.

(9) Minutes of each meeting of the Institution or a committee shall be kept by the Registrar and shall be confirmed at the subsequent meeting of the Institution or committee, as the case may be.

(10) Subject to the provisions of this Act, the Institution may make rules to regulate—

- (a) its proceedings and business; or
- (b) the proceedings and business of any of its committees.

PART III—ADMINISTRATION

11.—(1) The Institution shall designate Divisions of the Institution in accordance with the different streams of its members, which shall be answerable to the Institution, and be responsible for the management and control of the affairs of each stream of membership.

Divisions of
Institution

(2) The divisions of the Institution shall include—

- (a) civil engineering;
- (b) mechanical engineering;
- (c) electrical engineering;
- (d) irrigation engineering;
- (e) mining engineering;
- (f) chemical engineering;
- (g) information computer technology engineering; and
- (h) any other division as may be determined by the Institution and approved by the Institution.

(3) Each stream of membership of a Division shall elect among themselves a chairperson who shall be answerable to the Institution.

(4) A person shall not be a member of any of the divisions listed under subsection (2) unless he has been registered to engage in the practice of engineering under this Act.

Branches of
Institution

12.—(1) There shall be Branches of the Institution as may be determined and approved by the Institution.

(2) The Branches shall be created taking into consideration the number of members of the Institution resident in a geographical region of the country as determined by the Institution.

Secretariat

13.—(1) There shall be a secretariat of the Institution which shall be headed by a Registrar, who shall be the chief executive officer and a fellow or a professional engineer.

(2) The Registrar shall be responsible for the administration and management of the affairs of the Institution and in all matters shall, at all times, be subject to the directions of the Institution.

(3) The Registrar shall be appointed by the Institution on a performance-based contract for a period of three years, which may be renewed once, and on any terms and conditions as the Institution shall determine.

(4) The Registrar may, with prior approval of the Institution, appoint other employees of the secretariat as may, from time to time, be required for the carrying out of the functions of the Institution, on terms and conditions, as the Institution shall determine.

Inspectors

14.—(1) The Registrar shall, with prior approval of the Institution, appoint inspectors on terms and conditions determined by the Institution, with the function of ensuring compliance with the provisions of this Act.

(2) The Institution shall provide an inspector with an identification certificate which shall be *prima facie* evidence of his appointment.

(3) An inspector shall, in performance of the functions under this Act,—

(a) possess an identification certificate referred to under subsection (2); and

(b) on request, show the identification certificate to any person.

(4) An inspector may, for the purpose of enforcing this Act, at any reasonable time, without prior notice, and on the authority of a search warrant, enter into any premises that the inspector has reasonable grounds to believe that it is being used by a person

registered under this Act to commit an offence or act contrary to the provisions of this Act, and may—

(a) search the premises;

(b) search any person on the premises if there are reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on the investigation, except that the person shall not be searched by a person of the opposite sex;

(c) take extracts from, or any copies from any book, document or record that is on the premises and that has a bearing on the investigation;

(d) demand the production of, and inspect, relevant certificates; and

(e) make any inquiries as may be necessary in order to ascertain whether this Act or any other written law on which there is an investigation is being complied with.

(5) An inspector shall submit to the Institution, through the Registrar, a written report and any other information relating to an inspection.

15. A person who—

(a) delays or obstructs an inspector in the performance of the inspector’s duties and functions under this Act;

(b) refuses to give an inspector reasonable assistance as he may require for the purpose of exercising the inspector’s functions; and

(c) gives an inspector false or misleading information in response to an inquiry made by the inspector,

commits an offence and shall be liable, upon conviction, to a fine of K5,000,000 and to imprisonment for one year.

Non-compliance with an inspector

16. Members of the Board, committees, divisions and branches of the Institution shall be paid allowances or other benefits from the funds of the Institution as the Minister may, on recommendation of the Board, from time to time, approve.

Remuneration

17. A member of the Institution or an employee of the secretariat shall not be personally liable for any action taken by the member or the employee in good faith in that capacity and while duly authorized by the Institution.

Limitation of personal liability

18.—(1) The common seal of the Institution shall be authenticated by the signatures of the president, or of the person for

Custody and use of common seal

the time being performing the functions of president, and of one other designated member of the Institution for that purpose.

(2) Any document purporting to be sealed with the common seal and so authenticated shall be admissible in evidence before any court or tribunal as true in relation to the particulars stated therein.

(3) The common seal of the Institution shall be kept and used in a manner prescribed by the Institution.

PART IV—THE ENGINEERING REGISTRATION COUNCIL

Engineering
Registration
Council

19.—(1) There shall be an Engineering Registration Council (hereinafter referred to as “the Registration Council”) which shall be responsible for the registration and regulation of qualifications of the classes of membership of the Institution.

(2) The Registration Council shall consist of fellows or professional engineers appointed by the Board of the Institution from the following disciplines—

- (i) aeronautical, aircraft, automobile, locomotive and marine engineering;
- (ii) mechanical, mechanical production and agricultural engineering;
- (iii) civil, structural, highway and railway engineering;
- (iv) water, environmental and irrigation engineering;
- (v) electrical and electronics engineering, information and communications technology and energy engineering;
- (vi) geology and mining engineering;
- (vii) metallurgy, chemical and production process engineering;
- (viii) any other discipline approved by the Malawi Engineering Institution; and
- (ix) a lecturer in engineering or an allied discipline from an institution of higher learning.

(3) Subject to subsection (2), the Board of the Institution shall appoint the chairperson of the Registration Council.

Tenure and
vacancy

20.—(1) A member of the Registration Council shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(2) Whenever the office of a member falls vacant before the expiration of the period for which the member was appointed, the Institution shall, subject to the provisions of section 19, fill the vacancy for the remainder of the period:

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

(3) Any person who—

(a) is an undischarged bankrupt;

(b) has been convicted of an offence and sentenced to a custodial sentence without the option of a fine;

(c) becomes, by reason of mental or physical infirmity, incapable of performing his duties as a member; or

(d) is a Member of Parliament, Minister or Deputy Minister,

shall be disqualified from being appointed to, or from continuing to hold office, as a member of the Registration Council.

21.—(1) Except as otherwise provided for in this Act, the Registration Council shall—

Functions of
Registration
Council

(a) establish educational standards and qualifications for the engineering profession and allied disciplines in Malaŵi;

(b) recommend to the National Council for Higher Education as established under the National Council for Higher Education Act, universities, colleges and institutions, programmes to be accredited for the award of a qualification in engineering or an allied discipline;

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(c) prescribe, by rules, syllabi of subjects for examinations to be set and held by the Registration Council, from time to time;

(d) set and hold, from time to time, qualifying examinations for admission to the engineering profession in Malaŵi and for registration under this Act;

(e) set and hold, from time to time, any other examinations, oral or written, as the Institution considers necessary for the purposes of this Act;

(f) issue certificates to candidates who are successful in examinations conducted by the Board for the purposes of this Act;

(g) register engineers, technologists, technician engineers, engineering technicians, craftspersons and students of any of the foregoing classes.

22.—(1) The Registration Council shall meet at least once every quarter, at a place and at a time as the chairperson may determine, for the transaction of its business.

Meetings of
Registration
Council

(2) The chairperson shall, upon giving a written notice of at least fourteen days to the members, convene an ordinary meeting of the Registration Council.

(3) The chairperson may, on a special written request signed by not less than three members, call for a special meeting of the Registration Council to be held within seven days after the receipt of such request, at a time and place as he may determine.

(4) The chairperson, or in his absence, the vice chairperson shall preside over the meeting of the Registration Council and in the absence of both the chairperson and the vice chairperson, the members present and forming a quorum shall elect one of their number, to preside over the meeting of the Registration Council.

(5) At any meeting of the Registration Council, half of the membership plus one shall constitute a quorum, and voting on any decisions shall be by simple majority of those present, and the person chairing the meeting shall, where necessary, have a casting vote in addition to his deliberate vote.

Committees
of
Registration
Council

23.—(1) The Registration Council may establish committees for the purpose of delegating to them, any functions that it considers necessary, subject to this Act.

(2) Subject to any specific or general direction of the Registration Council, a committee of the Registration Council shall regulate its own procedures.

Remuneration
and
allowances

24. Members of the Registration Council shall be paid allowances or other benefits from the funds of the Institution as the Minister responsible for Finance may, on recommendation from the Board of the Institution, from time to time, approve.

PART V —REGISTRATION, CLASSIFICATION AND PRACTICE

Registration
as a
prerequisite
for practice

25.—(1) Save where this Act otherwise provides, a person shall not engage in the practice of engineering in Malaŵi, or hold himself out as being entitled so to do, unless the person is registered under this Act.

(2) A person who engages in the practice of engineering in contravention of subsection (1) commits an offence.

Registers of
members

26.—(1) The Registration Council shall, for the purposes of this Act, keep and maintain, in a prescribed form, registers of its members according to their classes and categories.

(2) The registers shall be in the custody and under the control of the Registrar and shall be kept at the offices of the Institution or at any other place in Malaŵi that the Registration Council may direct.

(3) The Registrar shall perform all duties in connection with the registers as may be prescribed, and, in this regard, he shall be under the control of the Registration Council.

(4) The registers referred to in subsection (1) shall, at all reasonable times, be open to inspection by—

- (a) public officers in the course of their duties; and
- (b) members of the public, upon payment of a prescribed fee.

(5) Every person registered under this Act shall, before 1st January, of each year, pay an annual subscription fee, as the Registration Council may prescribe, from time to time.

(6) The registers of members referred to under subsection (1) shall each be kept and maintained in two parts, as follows—

(a) Part I which shall be designated as the “Main Register” and in which shall be registered every person, whether resident in Malaŵi or not, who is registered under this Act to practice engineering and whose registration has not been cancelled under this Act; and

(b) Part II which shall be designated as the “Current Register” and in which shall be registered every person who—

- (i) is resident in Malaŵi;
- (ii) is registered in the Main Register;
- (iii) has paid the annual subscription fee; and
- (iv) has, in the preceding year, earned adequate Continued Professional Development points, in accordance with this Act.

(7) The Registrar shall, once in every year and as soon as may be convenient after 1st January, publish in the *Gazette* and print media the names, addresses, qualifications, date of registration and other particulars of all persons registered in the Current Register.

(8) For the purposes of registration—

- (a) “class of membership” means—
- (i) a fellow;
 - (ii) a professional engineer;
 - (iii) an associate engineer;
 - (iv) a graduate engineer;
 - (v) a technologist;
 - (vi) a technician engineer;
 - (vii) an engineering technician;

(viii) a craftsperson; and

(ix) any other class or category as determined by the Malawi Engineering Institution;

(b) “practice of engineering” means any service or creative work, the adequate performance of which requires—

(i) engineering education, training, and experience in the application of special knowledge of the mathematical, physical or engineering sciences to any services or creative work as consultation, investigation, planning, design, and design coordination of engineering works and systems;

(ii) planning the use of land and water, teaching of advanced engineering subjects, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications;

(iii) any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, pneumatic, or thermal nature, insofar as they involve safeguarding life, health, or property; and

(iv) other professional services as may be necessary to the planning, progress and completion of any engineering services;

(c) “design coordination” includes the review and coordination of technical submissions prepared by consulting engineers, architects, landscape architects, land surveyors, and other professionals working under the direction of an engineer; and

(d) “engineering surveys” include all survey activities required to support the sound conception, planning, design, construction, maintenance, and operation of engineered projects, but exclude the surveying of real property for the establishment of land boundaries, rights-of-way, easements, and the dependent or independent surveys or re-surveys of the public land survey system.

Applications
for
registration

27. A person shall make an application for registration under this Act to the Registration Council, accompanied by a prescribed fee.

Registration
as fellow

28. A person shall make an application to the Registration Council for registration as a fellow, if, at the time of his application, he is—

(a) registered as a professional engineer for a period prescribed by the Registration Council under this Act; and

(b) engaged in a senior position of responsibility as a professional engineer for a period prescribed by the Registration Council within the engineering profession, an academic field or engineering research of a nature approved by the Registration Council.

29.—(1) A person shall make an application to the Registration Council for registration as a professional engineer if, he has—

Registration
as
professional
engineer

(a) in consequence of an examination, obtained from a recognized or an accredited educational institution, an engineering degree or other qualifying certificate which the Registration Council considers acceptable for registration;

(b) for a prescribed period, been registered as a graduate engineer under this Act, and has complied with all the conditions attaching to his registration as a graduate engineer;

(c) since obtaining his degree or qualifying certificate, he has been engaged in active practice as a graduate engineer for a period of not less than three years; and

(d) passed the appropriate engineering qualifying examination for a professional engineer.

(2) If the Registration Council is satisfied that the applicant has complied with all of the relevant requirements of this section, it shall direct the Registrar to register the said applicant as a professional engineer.

30.—(1) A person shall make an application for registration to the Registration Council as an associate engineer under this Act, if, at the time of his application, he—

Registration
as associate
engineer

(a) has complied with the requirements of section 29(1)(a) and 29(1)(b);

(b) is engaged in work of a technical nature and has been in a position of responsibility for at least five years; and

(c) can satisfy the Registration Council, through the submission of a project report and through an interview that he has acquired a standard of technical proficiency and responsibility considered satisfactory by the Registration Council, but falls short of meeting the requirements for registration as a professional engineer.

(2) The provisions of section 29(1) shall apply, with the necessary changes, to every application made under this section.

(3) The Registration Council may, from time to time, prescribe further conditions attaching to registration as an associate engineer.

(4) Where the Registration Council is satisfied that the applicant has complied with all of the relevant requirements of this section, save the requirements that have, in the applicant's case, been waived by the Registration Council pursuant to subsections (2) or (3), it shall direct the Registrar to register the said applicant as an associate engineer.

Registration
as graduate
engineer

31.—(1) A person shall make application for registration to the Registration Council as a graduate engineer under this Act, if he has complied with requirements of section 29(1)(a).

(2) The provisions of section 29(1) (a), shall apply, with the necessary changes, to every application made under this section.

(3) Where the Registration Council is satisfied that an applicant has complied with all of the relevant requirements of this section, it shall direct the Registrar to register the said applicant as a graduate engineer.

(4) A graduate engineer registered pursuant to this section shall be entitled to practice engineering, as an engineer in training, by agreement with, and under the supervision or control, of a registered mentor who is registered as such under this Act.

(5) The Registration Council shall prescribe the period of training required for graduate engineers pursuant to subsection (4).

(6) The Registration Council may, from time to time, prescribe further conditions attaching to registration as a graduate engineer.

(7) An agreement made between a graduate engineer and a registered mentor for the purposes of this section shall be in writing and in a form approved by the Registration Council and shall be executed by the parties thereto in triplicate and delivered to the Registrar by the registered mentor concerned for noting in the register of graduate engineers.

(8) Any failure to deliver the agreement executed in accordance with subsection (7) to the Registrar within two months after its execution shall render the agreement void.

(9) The Registrar shall retain a copy of the executed agreement and without undue delay, cause the other copies, duly endorsed by him, to be delivered to the parties thereto.

(10) A registered mentor shall, not earlier than 1st October and not later than 31st December of each year, make, in the prescribed form, a report to the Registration Council on the progress and quality of the work of each graduate engineer in training under his supervision or control.

32. A person shall make an application to the Registration Council for registration as a student engineer under this Act if he is pursuing an engineering course, at an accredited educational institution, that shall, upon completion, lead to his satisfying the requirements of section 29 (1)(a).

Registration
as student
engineer

33.—(1) A person shall make an application to the Registration Council for registration as a technologist under this Act, if he—

Registration
as
technologist

(a) has obtained a degree in an allied discipline from an accredited educational institution or from an educational institution which the Registration Council considers acceptable for registration and, subsequent to his attaining the qualifying degree or other acceptable qualification, he—

(i) has received practical training from approved employment or an approved establishment as a technologist for a period of not less than two years; and

(ii) is engaged in work of a technical nature and has been in a position of responsibility for at least five years; or

(b) produces evidence satisfactory to the Registration Council of his registration in any other country at an equivalent level by a registration authority of that country recognized by the Registration Council.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as a technologist.

34.—(1) A person shall make an application to the Registration Council for registration as a technician engineer under this Act, if he—

Registration
as technician
engineer

(a) has obtained a diploma in engineering or other relevant qualifications from an accredited educational institution or from an educational institution which the Registration Council considers acceptable for registration and, subsequent to his qualifying diploma or other relevant qualification, he—

(i) has received practical training from approved employment, or an accredited educational institution as a technician engineer for a period of not less than two years; and

(ii) has had relevant engineering experience for a minimum of three years, at least two years of which have been at a level of responsibility commensurate with the duties of a technician engineer; or

(b) produces evidence, satisfactory to the Registration Council, of his registration in any other country at an equivalent level by a

registration authority of that country recognized by the Registration Council.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as a technician engineer.

Registration
as trainee
technician
engineer

35.—(1) A person shall make an application to the Registration Council for registration as a trainee technician engineer under this Act, if he—

(a) has obtained a diploma in engineering or other relevant qualifications from an accredited educational institution which the Registration Council considers acceptable for registration; and

(b) subsequent to his qualifying for a diploma or certificate, he is undergoing practical training from an approved employment or an accredited educational institution as a technician engineer.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as a trainee technician engineer.

Registration
as
engineering
technician

36.—(1) A person shall make an application to the Registration Council for registration as an engineering technician under this Act, if—

(a) he has obtained a technician diploma in a relevant branch of engineering or other relevant qualification from an accredited educational institution which the Registration Council considers acceptable for registration and, subsequent to obtaining the qualifying certificate, he—

(i) has received practical training from an approved employment or an accredited educational institution as a technician for a period of not less than two years; and

(ii) has had experience for not less than two years as a technician; or

(b) produces evidence satisfactory to the Registration Council of his registration in any other country at an equivalent level by a registration authority of that country recognized by the Registration Council.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as an engineering technician.

37.—(1) A person shall make an application to the Registration Council for registration as a trainee engineering technician under this Act if he—

Registration
as trainee
engineering
technician

(a) has obtained a technician diploma in a relevant branch of engineering or other relevant qualifications from an accredited educational institution which the Institution considers acceptable for registration; and

(b) subsequent to his qualifying certificate he is undergoing practical training from approved employment or an accredited educational institution as a technician.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as a trainee engineering technician.

38. A person shall make an application to the Registration Council for registration as a craftsperson under this Act, if he—

Registration
as
craftsperson

(a) has obtained a Grade I National Trade Test Craftsperson's certificate in a relevant branch of engineering from an accredited technical college or has obtained from an accredited educational institution other qualifications which the Institution considers acceptable for registration and, subsequent to his qualifying certificate, he—

(i) has received practical training from an approved employment or an accredited educational institution as a craftsperson for a period of not less than two years; and

(ii) has had experience for not less than two years as a craftsperson; or

(b) produces evidence satisfactory to the Institution of his registration in any other country at an equivalent level by a registration authority of that country recognized by the Institution.

(2) Where the Registration Council is satisfied that the applicant has complied with all the relevant requirements of this section, it shall direct the Registrar to register the applicant as a craftsperson.

39. A statutory corporation, a company, an association, a partnership or other body, division, department or section which is—

Registration
of corporate
members

(a) directly engaged in engineering activities; or

(b) professionally interested in engineering or an allied discipline in Malaŵi,

shall register with the Registration Council and may be admitted as a corporate member.

Engineering
qualifying
examination

40.—(1) The Registration Council shall from time to time set, arrange and hold an engineering qualifying examination for the purposes of registration under this Act.

(2) A person who intends to apply for registration under this Act, shall, before making the application, physically present himself to the Registration Council as a candidate for the engineering qualifying examination.

(3) The Registration Council 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 the parts be independent of, or be interdependent upon, each other.

(4) In cases where the parts of an engineering qualifying examination are independent of each other, a candidate shall not be deemed to have successfully passed an examination unless and until he has passed the examination in all parts, which taken together, would constitute successfully passing the examination in every part or subject into which the engineering qualifying examination has been so divided by the Registration Council.

(5) The engineering qualifying examination may be in a form of written or oral examination, or both.

Registration
of qualified
foreign
engineers and
firms

41.—(1) The Registration Council may register a person or firm, who is not a citizen of Malaŵi, as a member in any class of membership subject to satisfaction of the requirements for that class under this Act.

(2) The person or firm referred to in subsection (1) shall not, unless the person or firm is registered under this Act, practice as or be employed in any class under this Act, offer or carry out engineering services, be engaged as an agent of, or hold out to be, an engineering professional or engineering organization in Malaŵi.

(3) An immigration officer shall not, without the approval of the Registration Council, issue an employment or other permit to a person on the basis that he intends to practise, or be employed, in any class of membership under this Act in Malaŵi.

(4) A person who contravenes this section commits an offence and is liable, upon conviction, to a fine of K10,000,000 and imprisonment for five years.

42.—(1) The Registration Council may, from time to time, select from among the fellows or professional engineers registered under this Act, as mentors, such professional engineers as appear in the opinion of the Registration Council to possess the qualifications and experience necessary for the training and supervision of graduate engineers.

Selection and registration of mentors

(2) The fellows or professional engineers selected by the Registration Council shall be subject to the approval of the Institution and upon the Institution's approval shall be registered as registered mentors.

(3) Registration of a person in the register of registered mentors shall in no way affect or alter his registration in their relevant registers, whether fellow or professional engineer.

(4) The Institution may, on recommendation by the Registration Council, at any time, cancel the registration of any fellow or professional engineer in the register of registered mentors.

43.—(1) The Registrar may, with the prior approval of the Registration Council make any necessary alteration or correction in any register in relation to any entry therein.

Correction of registers

(2) The Registrar shall remove from any register the name of any member—

(a) who has died; or

(b) whose entry was incorrectly or fraudulently made, and the Registration Council has directed that the name be removed 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 practice engineering or an allied discipline in Malaŵi.

(4) Any name removed from a register pursuant to subsection (3) shall, at the request in writing of the person concerned and subject to the approval of the Registration Council, be reinstated in the register.

44.—(1) A person shall not be eligible for registration under this Act, if he has been—

Non-eligibility for registration

(a) convicted by a competent court of law of an offence and given a custodial sentence without an option of a fine;

(b) adjudged or otherwise declared to be of unsound mind under any law in force in Malaŵi or any country;

(c) declared an undischarged bankrupt; or

(d) found guilty of professional misconduct by the Disciplinary Committee.

(2) A body corporate shall not be eligible for registration, if it has been declared insolvent under a written law in Malaŵi or elsewhere.

Honorary fellows

45.—(1) Subject to subsection 2, the Registration Council may register a person as an honorary fellow of the Institution.

(2) The Registration Council shall determine conditions under which honorary fellowship shall be conferred on a person.

Certificates, membership cards and stamps

46.—(1) The Registration Council shall issue to a person or firm registered under this Act, a certificate of registration and, in the cases of a fellow and professional engineer, a fellow's stamp and professional engineer's stamp, respectively, in a prescribed form.

(2) The Registration Council shall, in addition to the certificate of registration, which shall signify the registration of the holder in the Main Register, issue to every registered member at the beginning of each year and upon payment of his annual subscription fee, a practicing certificate and a membership card that shall be valid up to 31st December of that year.

(3) The certificate of registration and the membership card shall signify the registration of the holder in the Current Register and the certificate shall at all times be displayed at the holder's place of practice.

(4) A practicing certificate shall be renewed annually in the prescribed manner upon payment of a prescribed fee.

(5) A holder of a certificate issued under this section shall notify the Registration Council any change in particulars relating to the holder within fourteen days of the change.

(6) A person or a body corporate without a valid practicing certificate commits an offence, if they—

(a) carry on the practice of engineering in Malaŵi as stipulated in section 26(8);

(b) accept any appointment for which registration is required as stipulated in section 27;

(c) teach, practice, or offer their services or hold themselves out as being qualified professionals or professional body in engineering or allied disciplines;

(d) adopt, use or exhibit a title of any class or category of any professional registered under this Act or any of the applicable

corresponding post-nominal abbreviations, as prescribed under this Act; or

(e) do anything likely to lead persons to infer that they are registered under this Act.

(7) The Registration Council shall put in place a system for monitoring the activities of all members registered under this Act such that at the end of each year, members shall be assessed for eligibility for practicing certificates in the following year, and the monitored activities shall include participation in continued professional development programmes and functions as prescribed by Registration Council.

(8) A certificate of registration or practicing certificate issued in accordance with this section shall be cancelled by the Registration Council where—

(a) it is proved to the satisfaction of the Registration Council that the registration was obtained through fraud, misrepresentation or concealment of material facts;

(b) the holder ceases to be a member;

(c) the holder has been found guilty of professional misconduct under this Act; or

(d) circumstances arise which, in the opinion of the Registration Council, disqualify the holder from membership.

(9) Before the cancellation, the Registration Council shall give the holder, a notice of fourteen days of the intention to cancel the certificate and shall require the holder to show cause, if any, why the certificate should not be cancelled.

(10) The Registration Council may, before the cancellation, suspend a member for a period not exceeding ninety days on terms and conditions the Registration Council may determine.

(11) A member whose certificate has been cancelled in accordance with subsection (8) shall be deregistered and have their name removed from both registers.

PART VI—DISCIPLINE

47.—(1) There is hereby established a Disciplinary Committee of the Institution which shall consist of the following persons appointed by the Institution at the annual general meeting of the Institution—

Disciplinary
Committee

(a) a chairperson, who shall be appointed from among the members of the Board of the Institution;

(b) two registered members, who shall be registered fellows or professional engineers;

(c) a legal practitioner nominated by the Malaŵi Law Society; and

(d) one person of good standing in society and who is not registrable under this Act.

(2) A member of the Disciplinary Committee shall hold office for a term of three years and may, on expiry of the term, be re-elected for one further term.

Powers of
Disciplinary
Committee

48.—(1) The Disciplinary Committee shall have the power to inquire into the conduct of any member of the Institution in accordance with the provisions of this Part.

Cap 18:01

(2) The provisions of sections 10, 11, 12 and 13 of the Commissions of Inquiry Act shall apply, with the necessary changes, to an inquiry under this Part, as though the Disciplinary Committee were a Commission appointed under that Act, save that the member into whose conduct the inquiry is being conducted, shall not be entitled to their expenses incurred for the purpose of attending the inquiry.

Proceedings
of
Disciplinary
Committee

49.—(1) Where the Institution has reasonable grounds to believe, whether as a result of a complaint laid before the Institution or on its own volition, that any member registered under this Act, in the course of their professional work,—

(a) knowingly and habitually engages in practices which are dishonest or fraudulent;

(b) has contravened the provisions of this Act;

(c) commits professional misconduct defined under section 50 of this Act; or

(d) is liable to a professional misconduct or conduct which in relation to their professional practice is unbecoming of a member;

(e) has failed, within a reasonable time, to comply with any requirement or condition imposed upon him by the Board in its ruling on an inquiry into his professional conduct under this Act;

(f) has, notwithstanding his suspension pursuant to this Act, engaged in the practice of engineering or an allied discipline contrary to the terms and conditions of his suspension; or

(g) has, within the previous year, been sentenced to a term of imprisonment without an option of a fine,

the Institution may, through the Board, direct the chairperson of the Disciplinary Committee, in writing, to convene a meeting of the Disciplinary Committee to conduct an inquiry.

(2) Upon receipt from the Board of the Institution of the direction in writing referred to in subsection (1), the chairperson to the Disciplinary Committee shall, as soon as is practicable, by notice in writing to the members of the Disciplinary Committee, convene a meeting of the Committee on 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 direction contained in the written notice.

(3) The quorum of a Disciplinary Committee shall be a majority of its membership.

(4) The chairperson or, in his absence, the person appointed by members present at that particular meeting, shall preside over at any meeting of the Disciplinary Committee.

(5) All proceedings of the Disciplinary Committee shall be held in camera.

(6) A decision of the Disciplinary Committee shall be by a simple majority of votes of members present and voting.

(7) The Disciplinary Committee may, in the conduct of each inquiry, determine its own procedure.

50. A member registered under this Act commits professional misconduct if, in the course of his practice, the member—

Professional
misconduct

(a) unlawfully discloses or uses to his own advantage or to the advantage of another member, any information acquired in his practice of the engineering profession or allied discipline;

(b) contravenes a provision of this Act or Regulations made under this Act;

(c) is convicted of an offence and sentenced to a custodial sentence without the option of a fine;

(d) engages in conduct that is dishonest, fraudulent or deceitful;

(e) charges for professional work, fees other than those stipulated in the scales approved by the Institution;

(f) fails to report the interest of his client, fails to disclose, or knowingly conceals from the client misstatements or facts known to themselves and disclosure of which is necessary for the reports not to mislead;

(g) engages in conduct that is prejudicial to the engineering profession or is likely to bring it into disrepute; or

(h) breaches the Code of Conduct, or aids or abets another member to breach or disregard the Code of Conduct.

Application of rules of natural justice

51. The Disciplinary Committee shall, before taking any disciplinary action, observe the rules of natural justice and accord a member who is a subject of a disciplinary action, a right to be heard.

Report of proceedings

52.—(1) The Disciplinary Committee shall, within fourteen days of a close of an inquiry, produce a report which shall be submitted to the Institution together with documents produced at the inquiry.

(2) The report of the Disciplinary Committee shall contain recommendations to the Institution.

(3) The Institution shall consider the report and make a decision thereon within fourteen days of its receipt.

(4) Where the Institution finds that a member has committed misconduct, the Institution may impose the following penalties—

- (a) order the de-registration of the member from the register;
- (b) suspend the member for a period of not exceeding one year;
- (c) censure the member;
- (d) caution the member;
- (e) a fine to be paid by the member as may be prescribed by the Institution;

(f) order the member to pay to the Institution or any other party to the proceedings, any costs of, or incidental to the proceedings; or

(g) order the member to pay any party to the proceedings or any person, as restitution, the amount of loss caused by the member's misconduct.

(5) A member who is aggrieved by a decision of the Institution pursuant to this Part, may apply to the High Court for a judicial review.

Code of ethics

53.—(1) The Minister shall, on the recommendation of the Institution, and by regulations, prescribe a code of ethics regulating all engineering activities and exercising control over its members.

(2) Failure by any member to conform to the code of ethics shall constitute professional misconduct resulting in such a member being liable to disciplinary action.

PART VII—OFFENCES

54. Save where this Act otherwise provides, a person or firm who or which is not registered under this Act, and who or which, in Malaŵi— Unlawful practice of engineering

(a) engages, or purports to engage, in the practice of engineering;

(b) holds themselves 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 or body corporate registered under this Act,

commits an offence and shall be liable upon conviction to a fine of K10,000,000 and to imprisonment for five years.

55. A person who, in relation to himself or to any business which he owns, manages or controls, uses or assumes any title or description attached to an engineering profession or allied discipline under this Act or who uses or assumes any applicable abbreviation of the title or description, without being registered under this Act, commits an offence and shall, upon conviction, be liable to a fine of K5,000,000 and to imprisonment for two years. Unlawful use of titles or descriptions

56.—(1) A person or body corporate, who or which, without the prior written consent of the Institution,— Employment of non-registered persons

(a) employs any person not registered under this Act to do or perform any prescribed engineering work or activity; or

(b) during the course of employment of any person not registered under this Act, requires the person to do or perform any prescribed engineering work or activity,

commits an offence and shall be liable, upon conviction, to a fine of K15,000,000 and to imprisonment for seven years.

(2) Where an offence under subsection (1) is committed by a body corporate, every concerned director and manager in the firm shall be deemed to have committed the offence unless the director or manager proves that the offence was committed without his knowledge or consent.

(3) Any person not registered under this Act, who, while in the employment of any other person or body corporate, knowingly, in the course of his employment, does or performs any prescribed engineering work or activity, commits an offence and shall be liable,

upon conviction, to a fine of K10,000,000 and to imprisonment for five years.

Fraudulent entries and copies

57. A person who knowingly or fraudulently makes or utters, or causes, or permits to be made or utter—

(a) any false or incorrect entry in any register; or

(b) any false or incorrect copy of any entry in any register,

commits an offence and shall be liable, upon conviction, to a fine of K10,000,000 and to imprisonment for five years.

Liability of partners in a firm

58.— (1) Where a firm does any act which if done by an individual would be an offence under this Part, every partner in that firm shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or consent.

(2) A person who commits an offence under subsection (1) shall be liable, upon conviction, to a fine of K5,000,000 and to imprisonment for two years.

PART VIII—FINANCIAL PROVISIONS

Funds of Institution

59. The funds of the Institution shall consist of—

(a) moneys as may be appropriated by Parliament;

(b) moneys or other property payable to or vesting in the Institution whether in the course of the exercise of its powers or functions or otherwise;

(c) moneys, fees or other property payable to or vesting in the Institution pursuant to this Act or a written law; and

(d) donations, grants or gifts.

Investment powers

60. The Institution shall have powers to invest any moneys that are not immediately required for its objects or the performance of its functions.

Borrowing powers
Cap 37:02

61. The Institution may, subject to the Public Finance Management Act, 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.

Annual budgets

62. The Institution shall, in relation to each financial year, submit for approval to the annual general meeting both capital and income and expenditure budgets.

Books of accounts, audits and reports

63.—(1) The Institution shall cause to be kept proper books of accounts 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 Institution.

(2) The accounts of the Institution shall be audited annually by professional auditors appointed by the Institution in liaison with the Auditor General.

(3) The expenses of, and incidental to, any audit shall be payable out of the funds of the Institution.

(4) The Institution shall, as soon as is practicable, but not later than three months after the end of each financial year, submit to the Minister, an annual report of its work, operations and audited accounts who shall lay the report in Parliament.

PART IX—MISCELLANEOUS

64.—(1) Where a written law requires the holders of an office to have the roles and responsibilities related to engineering, technology and an allied discipline as stipulated under this Act, then that office shall be filled by a person who has been registered under this Act.

Engineering
appointments

(2) For the purposes of this Part, “registered member”, unless the Malawi Engineering Institution directs otherwise, means a member registered in accordance with the class of membership under section 26(8).

65.—(1) The Minister may, on the recommendation of the Institution, make regulations, prescribing anything which by the provisions of this Act may be prescribed for the better enforcement of this Act.

Regulations

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

(a) the conduct and procedure of the meetings of the Institution;

(b) election and tenure of the president and the vice president;

(c) the composition, functions, powers and procedures of the Institution, Board, Divisions and Branches of the Institution;

(d) the rights, privileges and obligations of the categories and classes of membership;

(e) the forms of the registers, books, applications, notices, licences, certificates, documents and records required to be kept and maintained, for the purposes of this Act;

(f) the manner of keeping the accounts of the Institution and the rendering of reports thereon;

(g) the fees to be charged in respect of anything required to be done or any applications made or certificates, licences or permits issued under this Act;

(h) any other matter as the membership may determine; and

(i) any other matters as may be deemed by the Institution as being necessary for the proper conduct and regulation of the affairs of the profession in accordance with the Act.

Cap. 1:01

(3) Notwithstanding the provisions of section 21 (e) of the General Interpretation Act, the Minister may, in regulations made under this Act, prescribe a fine of up to K10,000,000 and imprisonment for five years, for an offence committed in contravention of the regulations.

Repeal and savings
Cap. 53:03

66.—(1) The Engineers Act is hereby repealed.

(2) Any subsidiary legislation made under the Engineers 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 53:03

(3) Anything done in accordance with the Engineers Act prior to the commencement of this Act and which may be done in accordance with the provisions of this Act, shall be deemed to have been done in accordance with this Act.

(4) Any person who immediately before the commencement of this Act is a member registered by the Board of Engineers, as an engineer, graduate engineer, technician engineer or engineering technician shall on the commencement of this Act, provided that their membership of the Board of Engineers shall not have lapsed for any reason, be eligible for admission to the appropriate member categories and classes of the Institution as determined by the Institution.

Transfer of assets and liabilities

67.—(1) Property, assets, funds liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of the Board of Engineers, or the Malawi Institution of Engineers, shall, on the commencement of this Act, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the Institution and shall become enforceable by or against the Institution to the same extent as they were enforceable by

or against the Board of Engineers or Malaŵi Institution of Engineers.

(2) Where the transfer of any property transferred to or vested in the Institution under subsection (1) is required by any written law to be registered, the Institution shall, within one year from the commencement of this Act or within a period that the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Institution or any person by way of registration fees, stamp or other duties—

(a) make entries in the appropriate register as shall give effect to the transfer;

(b) where appropriate, issue to the Institution a certificate of title or other statutory evidence of ownership of the property or make the certificates or in the appropriate register as may be necessary; and

(c) make any necessary endorsement on the deeds or other documents as may be presented on the registering authority relating to the title, right or obligation concerned.

68.—(1) Any license issued or permission granted in accordance with the repealed Act shall, unless otherwise expressly provided for in this Act or in any other written law, continue to be in force and be deemed to have been issued or granted by the Authority or the Minister, as the case may be, under this Act.

Transitional provisions

(2) Any approval for equipment given under the repealed Act shall continue to be in force and be deemed to have been made under this Act.

(3) Members of the Board of Engineers and members of the Malaŵi Institution of Engineers, as constituted immediately before the coming into force of this Act, shall continue to hold office as members until the appointment of new members of the Institution in accordance with this Act.

(4) The Institution shall, within twenty-four months from the commencement of this Act, transfer all licences and certificates issued or granted under the repealed Act, as if the licenses had been granted under this Act and the Institution may extend the twenty-four months period by a period not exceeding six months after the expiry of the twenty-four months period.

69. Any legal proceedings commenced immediately before the coming into force of this Act by or against the Board of Engineers or the Malaŵi Institution of Engineers, shall be deemed to have

Legal proceedings

been commenced by or against the Institution established under this Act.

Transfer of
employees

70. Unless the Institution otherwise determines, all persons who, immediately before the commencement of this Act, were employed by the Board of Engineers or the Malaŵi Institution of Engineers established under the repealed Act, shall, on the commencement of this Act, be deemed to have been transferred to the employment of the Institution established under this Act, on terms and conditions of service not less favourable than their previous terms and conditions of service and, for the purpose of determining their rights thereunder, their services shall be regarded as being continuous from the time they were employed, respectively, by the Board of Engineers established under the repealed Act, or the Malaŵi Institution of Engineers.

Passed in Parliament this thirteenth day of March, two thousand and nineteen.

FIONA KALEMBA
Clerk of Parliament