

Malawi

Malawi Institute of Management Act Chapter 30:07

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Malawi

Malawi Institute of Management Act Chapter 30:07

Commenced on 26 April 1989

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

[Note: This version of the Act was revised and consolidated in the Forth Revised Edition of the Laws of Malawi (L.R.O. 1/2015), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to provide for the establishment of the Malawi Institute of Management; its incorporation and to provide for matters incidental thereto or connected therewith

Part I – Preliminary

1. Short title

This Act may be cited as the Malawi Institute of Management Act.

2. Interpretation

In this Act, unless the context otherwise requires–

“**Board**” means the Board of Governors for the Institute established under [section 5](#);

“**Chairman**” means the Chairman of the Board appointed and designated as such under [section 6 \(1\) \(a\)](#);

“**Institute**” means the Malawi Institute of Management established under [section 3](#);

“**Principal**” means an officer of the Institute appointed and designated as such under [section 11](#);

“**participant**” means a person enrolled on a training programme conducted by the institute;

“**statutory body**” means a local authority, a cooperative society and any body of persons, corporate or unincorporate, established by or under any written law or declared as such under any written law.

Part II – The Malawi Institute of Management

3. Establishment of the Institute

There is hereby established an institute to be known as the Malawi Institute of Management which shall be a body corporate, by that name, having perpetual succession and a common seal and shall, by that name, be capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating moveable or immovable property and, subject to the provisions of this Act, of doing or performing all such acts or things as bodies corporate may by law do or perform.

4. Objects of the Institute

The objects of the Institute shall be–

- (a) to provide training programmes and seminars and workshops aimed at upgrading and improving managerial skills of managers in the public service, statutory bodies and the private sector; and

- (b) to provide management consultancy services to the Government, statutory bodies and the private sector.

Part III – Board of Governors for the Institute

5. Establishment of Board of Governors

- (1) There is hereby established a body to be known as the Board of Governors for the Institute.
- (2) The operations of the Institute shall be governed by the Board which, subject to any special or general directions of the Minister, may exercise all powers and functions otherwise vested in the Board by this Act.

6. Composition of the Board

- (1) Subject to subsection (3), the Board shall consist of–
 - (a) a public officer of the rank of Principal Secretary, not being a public officer serving by virtue of paragraph (b), (c) (d) or (e) appointed by the Minister and whom the Minister shall designate as Chairman of the Board;
 - (b) the Secretary for Personnel Management and Training who shall be the Vice-Chairman;
 - (c) the Secretary to the Treasury;
 - (d) the Secretary for Education and Culture;
 - (e) the Secretary for Economic Planning and Development;
 - (f) the Head of the Department of Management of the University of Malawi; and
 - (g) one member who shall be appointed by the Minister from amongst chief executives of statutory bodies.
- (2) No member of the Board shall attend to the business of his office by representation except with the consent of the Chairman, but otherwise he may request that his apologies be registered.
- (3) The Minister may appoint to the Board for a period not exceeding two years such number of persons, not exceeding three in number as he considers suitably qualified to assist the Board in its work and deliberations, and such persons shall not have the right to vote at any meeting of the Board.

7. Co-opted persons

The Board may in its discretion at any time and for any length of time invite any person, and the Minister may in like manner nominate any officer in the public service, to attend any meeting of the Board and take part in the deliberations of the Board, but such person or officer shall not be entitled to vote at that meeting.

8. Meetings of the Board

- (1) Subject to the provisions of this Act, the Board shall hold ordinary meetings for the dispatch of business at least four times in each year.
- (2) An extraordinary meeting of the Board–
 - (a) may be convened by the Chairman at any time;

- (b) shall be convened by the Chairman within twenty-one days of the receipt by him of a request in writing signed by not less than three members of the Board and specifying the purpose for which the meeting is to be convened.
- (3) At any meeting of the Board—
 - (a) the Chairman or, in his absence the Vice-Chairman, shall preside;
 - (b) in the absence of both the Chairman and the Vice-Chairman, the members present and forming the quorum shall elect one of their number to preside; and
 - (c) the quorum shall be formed by any four voting members.
- (4) At any meeting the decision of the Board on any matter shall be that of the majority of the members present and voting at that meeting, and in the event of an equality of votes, the Chairman or the person presiding shall have a casting vote in addition to his deliberative vote.

9. Powers and functions of the Board

- (1) Subject to the provisions of [section 5](#) (2), the Board shall have the power—
 - (a) to determine policy respecting the implementation of the objects of the Institute;
 - (b) with the approval of the Minister—
 - (i) to appoint such categories of staff and upon such terms and conditions of service as the Board may determine;
 - (ii) to exercise disciplinary control over the staff appointed under paragraph (i) and over the participants;
 - (c) subject to this Act, to determine its own procedure;
 - (d) to regulate the admission of participants to the Institute;
 - (e) to determine the range, duration and content of the courses conducted at the Institute and shall do so in consultation with the Government Ministries, departments, statutory bodies and private sector organizations from time to time directly concerned with courses conducted at the Institute; and
 - (f) with the approval of the Minister, to determine whether the academic awards for courses conducted at the Institute should be at the level of certificate, diploma or otherwise and to make appropriate awards to successful participants.
- (2) In addition to the powers specified in subsection (1), the Board shall have the following further powers and functions—
 - (a) to establish committees to assist it in the performance of its functions and may, subject to the approval of the Minister, appoint any person as a member of any such committee whether or not such person is a member of the Board and—
 - (i) may in its discretion assign any of its powers or functions to any such committee but the Board shall not be divested of any power or function which it may have so assigned to any such committee and may approve, vary or revoke any decision of any such committee;
 - (ii) may, out of the funds of the Institute, pay to any member of any such committee who is not an officer in the public service such remuneration and allowances as the Board may, with the approval of the Minister, determine;

- (b) to determine fees to be paid to the Institute for the attendance of courses at the Institute by participants;
- (c) to require the Principal or any officer of the Institute to make reports to the Board respecting financial and other circumstances of the Institute and to direct any action to be taken by the Principal or any officer of the Institute; and
- (d) to do or perform any thing or act specified in the Schedule.

10. Non-liability of members of the Board and staff of the Institute

No member of the Board or staff of the Institute shall be personally liable for any act or default of his, or of the Board, done in good faith in the exercise or purported exercise, of the functions of the Board.

Part IV – Management of the Institute

11. Appointment of the Principal and other staff of the Institute

- (1) Subject to [section 9](#) (1) (b) (i), the Board shall appoint an officer of the Institute who shall be designated as the Principal upon terms and conditions approved by the Minister.
- (2) The Principal shall be appointed from amongst persons who have had experience and shown capacity in matters relating to the activities and administration of management, educational, training or similar institutions.
- (3) Except as otherwise expressly provided under this Act, the Principal shall, subject to any special or general directions of the Board–
 - (a) be the chief executive officer of the Institute and as such he shall be responsible to the Board for the internal organization and management of the Institute;
 - (b) be responsible for the supervision of the other staff of the Institute including the maintenance of discipline among the staff and participants of the Institute;
 - (c) after consultation with the Chairman, appoint temporary employees at such daily rates of pay, not below the minimum rates otherwise prescribed by written law, as he may consider appropriate and shall, after he has appointed any such employees report the fact thereof to the Board at its next meeting;
 - (d) be the secretary to the Board and any committee which the Board may establish pursuant to [section 9](#) (2) (a) and shall, on the instructions of the Chairman or the chairman of any such committee, as the case may be, convene any meeting thereof, and in carrying out his duties under this paragraph, the Principal–
 - (i) may attend all meetings of the Board and those of any committee; and
 - (ii) may attend any of the meetings referred to in subparagraph (i) together with such other officers of the Institute as the Principal may determine; and
 - (e) do or perform any thing or act as the Board may from time to time require him to do.
- (4) The Board may appoint a Deputy Principal if it considers it desirable for the discharge of the purposes of the Institute and the appointment shall be upon such terms and conditions as the Board may, subject to the approval of the Minister, determine.
- (5) If the Principal is absent or otherwise unable to carry out any of his functions under this Act, the Deputy Principal shall exercise the functions of the Principal during the period that the Principal is so absent or unable to act.

Part V – Financial provisions

12. Funds, accounts and audit

- (1) The funds of the Institute shall consist of–
 - (a) such sums as may be appropriated by Parliament for the purposes of the Institute;
 - (b) all fees payable under this Act;
 - (c) such other moneys and assets as may vest in or accrue to the Institute, whether in the course of its functions or otherwise.
- (2) The Board shall–
 - (a) keep proper accounts and other records relating thereto in respect of the funds of the Institute and shall in every respect comply with the provisions of the Finance and Audit Act; and
[Cap. 37:01]
 - (b) furnish to the Minister annually, or as often as the Minister may direct, accounts in respect of finances and property of the Institute, including an estimate of income and expenditure of the Institute for the following year.
- (3) The accounts of the Institute shall be examined and audited annually by auditors appointed by the Institute and approved by the Minister.

13. Remuneration and expenses of members of the Board

Members of the Board may be paid from the funds of the Institute such allowances as the Minister may determine and in determining the allowances the Minister may make provision for the reimbursement of any expenses incurred by a member of the Board.

14. Bank account

The Board may hold on a current or other account with a registered bank funds of the Institute and for such purposes as the Minister may approve.

Part VI – Miscellaneous

15. Property of the Institute

- (1) All property of the Institute, real or personal, which before the date of the commencement of this Act was vested in the Government shall, unless the Government otherwise agrees with the Institute, remain vested in the Government.
- (2) The Board shall keep all property of the Institute in good repair and may, with the prior written consent of the Government, make such alterations to the grounds, buildings, fixtures or fittings of the Institute as it may consider to be for the benefit of the Institute.
- (3) The Board may, in consultation with the Minister, regulate the use of the buildings or grounds of the Institute at times when they are not required to be used for purposes of education or training.

16. Transitional vesting provisions

- (1) All assets, liabilities, rights and obligations in, or appertaining to, the operations of the Institute within Malawi which immediately before the commencement of this Act were vested in, owing to or incurred by the Government or any person on behalf of, or as trustee for, the Institute are hereby vested in, transferred to and assigned to the Institute subject to any trusts under which such assets, liabilities, rights or obligations were held or incurred.
- (2) All bonds, charges, agreements, contracts, instruments and working arrangements creating or giving rise to liabilities, rights or obligations in, or appertaining to, the operations of the Institute within Malawi which immediately before the date of the commencement of this Act were subsisting in favour of or against any person on behalf of, or as trustee for, the Institute shall on that date, subject to any trusts under which such assets, liabilities, rights or obligations were so subsisting, become enforceable in favour of or against the Institute as if, instead of the Government or such person, the Institute had been named therein or had been party thereto.
- (3) All proceedings, judgments or causes in action which were pending or existing immediately before the commencement of this Act—
 - (a) relating to or connected with any asset, liability, right or obligation referred to in subsection (1), or
 - (b) arising out of any bond, charge, agreement, instrument or working arrangement referred to in subsection (2),
may be continued or enforced by or against the Institute as they might have been continued or enforced by or against the Government or any person on behalf of the Institute or as trustee for the Institute had this Act not come into operation.
- (4) Where the transfer of any property transferred to or vested in the Institute under subsection (1) is required by any written law to be registered, the Institute shall, within one year, or within such shorter period as is prescribed by the written law, from the date of commencement of this Act, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the Institute or any person by way of registering fees, stamp or other duties—
 - (a) make such entries in the appropriate register as shall give effect to the transfer;
 - (b) where appropriate, issue to the Institute a certificate of title or other statutory evidence of ownership of the property or make such amendments to the appropriate register as may be necessary; and
 - (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.
- (5) The foregoing provisions of this section shall not apply to any property referred to in subsection (1) of [section 15](#).

17. Non-disclosure of information

A person who discloses to any other person any information respecting the administration of the Institute which he has obtained as—

- (a) a member of the Board;
- (b) a member of any committee of the Board;
- (c) a Principal of the Institute;

(d) a member of staff of the Institute, and except if such disclosure is made to the Minister, the Board, any committee of the Board, or court of law or in the discharge of that person's duties under this Act, shall be guilty of an offence and shall be liable to a fine of K200 and to imprisonment for a term not exceeding three months.

18. Regulations

The Minister may make regulations for carrying out or giving effect to the provisions of this Act.

Schedule (Section 9)

Powers and functions of the Board

The powers and functions of the Board shall include the power—

- (a) subject to the directions of Minister, to make provision for the salaries, wages and other conditions of service of the Principal and other staff or employees of the Institute;
- (b) to make advances to employees of the Institute for the purchase of motor vehicles, or other vehicles by such employees, on terms and conditions as to use of such vehicles and as to repayment of such advances as the Minister may, from time to time, require;
- (c) to provide for persons in its employ or their dependants by means of insurance with an insurance company or a pension or provident fund or in any other manner whatsoever, pecuniary benefits upon retirement, death or termination of service or in the event of any sickness or injury;
- (d) to purchase, take on lease or in exchange or otherwise acquire dwelling houses for persons in its employ;
- (e) to purchase land and construct thereon dwelling houses for persons in its employ;
- (f) to sell or lease dwelling houses and land for residential purposes to persons in its employ;
- (g) subject to the Finance and Audit Act, to raise moneys by way of loans or bank overdraft;
- (h) to manage, insure, purchase, take on lease or in exchange, or otherwise acquire any moveable or immovable property, and any rights or privileges in or over any such property, which it considers necessary for the purpose of performing its functions;
- (i) to construct, maintain, alter and improve any buildings, works machinery and plant necessary or expedient for the purpose of performing its functions;
- (j) to work or otherwise beneficially use, or to exchange, let, sell or mortgage any property rights or privileges acquired or constructed under paragraph (d), (e), (h) or (i);
- (k) to invest and deal with any of its moneys not immediately required in such securities and in such manner as it may think fit and to vary or realize such investments;
- (l) to invite or receive donations from any person towards its expenses and to award bursaries and to make grants towards research or to any other such projects as it deems conducive to the promotion of the objects of the Institute;
- (m) to enter into agreements to facilitate the voluntary transfer of professional, technical or other staff between itself and any other employer;
- (n) for the better performance of its functions, to co-operate with Ministries, Government Departments, universities, statutory bodies and private sector organizations or any organizations or persons as may desire to avail themselves of its facilities inside and outside Malawi; and
- (o) to do all things incidental or conducive to the performance of its functions under this Act.