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MALAWI GOVERNMENT

LAWS OF MALAWI  
ON  
PARLIAMENT

*F Clifton White Resource Center*  
International Foundation for Election Systems

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PRODUCED BY  
MALAWI PARLIAMENT

1992

PARLIAMENTARY ELECTIONS

CHAPTER 2:02

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**CHAPTER 2:02**

**PARLIAMENTARY ELECTIONS**

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## CHAPTER 2:02

## PARLIAMENTARY ELECTIONS

24 of 1966 An Act to provide for the conduct of elections to the National  
 27 of 1971 Assembly, disqualifications to be elected a member, tenure  
 7 of 1973 of office by members of the National Assembly and for  
 matters connected therewith

[6TH JULY, 1966]

## PART 1

## PRELIMINARY

- Short title      1. This Act may be cited as the Parliamentary Elections Act.
- Application     2. This Act shall apply to the conduct of every general election and every by-election of members of the National Assembly.
- Interpretation   3. In this Act, unless the context otherwise requires—
- “the Assembly” means the National Assembly constituted under section 19 of the Constitution;
- “by-election” means the election of a member to fill a seat in the Assembly which has become vacant otherwise than in consequence of a dissolution of Parliament;
- “candidate” means any person who is nominated as a candidate for election as a member of the Assembly;
- “constituency” means an area delimited as such under section 8 of the Republic of Malawi (Constitution) Act or under section 31 of the Constitution;
- “election officer” includes the supervisor of the elections, the deputy supervisor, and any assistant supervisor, returning officer, assistant returning officer, presiding officer, enumerator or polling assistant appointed by or under this Act;
- “election representative” means the person whose name has been notified by the candidate to a returning officer as his election representative under section 10;
- “the Electoral Commission” means the Electoral Commission established by section 30 of the Constitution;
- “general election” means an election of members of the Assembly consequent upon a dissolution of Parliament;
- “member” means a member of the Assembly;

“nomination day” means the day appointed by the Electoral Commission under section 8 for the receipt by the returning officer of nominations of candidates;

“the Party” means the Malawi Congress Party;

“polling agent” means the person appointed as such by the candidate by or under this Act;

“polling assistant” means a person appointed as such by a returning officer under section 18;

“polling day” means any day appointed by the Electoral Commission under section 8 for the holding of a poll;

“presiding officer” means a person appointed as such by a returning officer under section 18;

“returning officer” means any person appointed as such by the supervisor of elections under section 4 and an assistant returning officer;

“supervisor of elections” means the person appointed as such under section 4 and includes the deputy supervisor and any assistant supervisor of elections appointed under that section;

“voter” means a person registered as a voter in the last register prepared and certified under the Registration of Voters Act. Cap. 2:03

4.—(1) The Electoral Commission shall appoint a supervisor of elections and may appoint a deputy supervisor of elections and assistant supervisors of elections. Appointment of election officers

(2) The supervisor of elections shall appoint such number of returning officers and assistant returning officers as may be necessary.

(3) Returning officers shall appoint such number of presiding officers and polling assistants as may be necessary.

(4) The supervisor of elections and returning officers may employ such staff as they require to carry out the functions assigned to them by or under this Act.

(5) The same person may be appointed to perform the functions of two or more classes of election officer.

(6) No person while he is a member of the Assembly or a candidate for election to the Assembly may be appointed as an election officer.

5.—(1) The supervisor of elections shall, subject to the general and special direction of the Electoral Commission— Functions of election officers

(a) exercise general direction and supervision over the

administrative conduct of elections and enforce on the part of all election officers fairness, impartiality and compliance with this Act;

(b) issue to election officers such instructions as from time to time he may deem necessary for the effective execution of this Act;

(c) perform all other functions which are assigned to him by or under this Act.

(2) Returning officers shall, in accordance with the directions of the supervisor of elections, perform the functions assigned to them by or under this Act and shall perform such other functions in relation to elections as the supervisor of elections may assign.

(3) Presiding officers and polling assistants shall, in accordance with the directions of returning officers, perform the functions assigned to them by or under this Act.

### PART III

#### CONDUCT OF ELECTIONS

General  
election and  
by-election  
7 of 1973

6.—(1) A general election shall be held at such times as are required by the Constitution.

(2) When a member dies or resigns, a new constituency is created, or the Speaker gives notice under section 28 of the Constitution that a seat has become vacant, a by-election shall be held.

Delay in  
publication  
of notice  
pending  
appeal

7. When a member of the Assembly has been sentenced by a court to death or imprisonment for a term exceeding twelve months, is adjudged or declared to be of unsound mind or bankrupt, or has been convicted of any offence prescribed under section 23, it shall not be necessary for the Speaker to give notice that such member's seat has become vacant until the time for appeal against such decision has expired or, if there is an appeal, until the determination of that appeal.

Election  
procedure

8.—(1) Whenever a general election or a by-election is to be held, the Electoral Commission shall issue an Order of which notice shall be published in the *Gazette*—

(a) declaring the constituency or constituencies in which an election is to be held;

(b) appointing the place, date and time for the receipt by the returning officer of the nomination of candidates, in respect of each such constituency;

(c) appointing the day or days on which a poll shall be taken if a poll becomes necessary.

(2) The date appointed under subsection (1) (b) shall be not less than fourteen days after the publication of the Order.

(3) The period appointed under subsection (1) (c) during which a poll shall be taken shall commence not less than twenty-one days after the nomination of candidates.

(4) Upon receipt of a copy of the Order required by this section, the returning officer for each constituency named in the Order shall proceed to hold an election in the manner prescribed by or under this Act.

9.—(1) On the day and at the time and place fixed for the nomination of candidates the returning officer shall attend at the place notified to receive the nomination of candidates and shall receive such nomination papers as may be tendered to him, and which appear to him to comply with this Act. Nomination of candidates

(2) The nomination of every candidate shall—

(a) be in the form set forth in the Schedule;

(b) be made by at least two voters registered in the constituency in which the candidate intends to be a candidate;

(c) be endorsed with the candidate's consent to nomination.

(3) The fact that subsequent to nomination the name of any person who nominated a candidate under subsection (2) (b) is struck off the register of voters shall not invalidate the nomination of the candidate.

(4) No candidate may be nominated for election in more than one constituency or while he is a member of the Assembly.

10. Every candidate may appoint one person to be his election representative, and shall notify in writing the returning officer of the constituency in which he is, or intends to be, a candidate of the name of the person so appointed. Election representative

11.—(1) Every candidate or his election representative shall at the time of his nomination deliver to the returning officer— Nomination paper and supporting documents

(a) a nomination paper completed and executed in the prescribed form;

(b) evidence, or a statutory declaration by the candidate made before a magistrate or a Commissioner for Oaths, that the candidate—

(i) is a citizen of Malawi and has attained the minimum age required by section 23 of the Constitution and;

(ii) is able to speak and to read the English language well enough to take an active part in the proceedings of the Assembly;



(c) evidence that—

- (i) he is registered as a voter in a constituency; and
- (ii) he is a member of the Party.

(2) A candidate or his election representative may before, but not after, the close of the period allowed for nominations withdraw his nomination paper.

(3) The returning officer shall, if the candidate or his election representative so requests, examine the nomination paper and supporting documents of the candidate before they are tendered and advise the candidate or his election representative whether in his opinion they are in order.

(4) The returning officer may, before the close of the period allowed for nominations, advise the candidate or his election representative of any defect in the candidate's nomination paper or supporting documents and the candidate or his election representative may, before the close of such period, rectify the defect.

Invalid  
nomination

12. Where a nomination paper is delivered in conformity with sections 9 and 11, and it is not withdrawn, the candidate shall be deemed to stand nominated unless the returning officer is satisfied of the candidate's death or decides that the nomination paper is invalid on one of the following grounds, but on no other grounds, namely—

(a) that the description of the candidate is insufficient to identify him;

(b) that the nomination paper does not comply with this Act;

(c) that the nomination paper was not tendered within the time prescribed;

(d) that any supporting document required to accompany the nomination paper has not been lodged with the returning officer; or

(e) that the evidence delivered to the returning officer under section 11 is insufficient.

Rejected  
nomination

13.—(1) If, after the close of the period allowed for nominations but before polling day, the returning officer is of the opinion that a candidate whose nomination papers have been lodged with him has not been duly nominated or is not qualified for election or has obtained nomination by fraud or false pretences, the returning officer shall forthwith notify such candidate or his election representative giving the reasons for such opinion, and, if so requested by the candidate or his election representative, the returning officer shall draw up and sign a statement of

the facts and his opinion based thereon and transmit it, together with the nomination paper and any certificate or affidavit which has been lodged with such nomination paper, to the Registrar of the High Court for hearing and decision by the High Court at the earliest opportunity. A copy of the statement shall, at the same time, be delivered to the candidate or his election representative.

(2) If no request is made under subsection (1) the candidate shall be deemed not to have been duly nominated.

(3) The High Court may call for further information from the person making the request or from the returning officer.

(4) The High Court shall after determination of the matter direct the returning officer either to accept or to reject the nomination and the returning officer shall comply with such direction.

(5) Where any nomination has been referred to the High Court under the provisions of this section the proceedings under section 14, 15 and 16 shall be suspended pending determination of the matter.

14. If at the end of the period allowed for nomination no candidate has been duly nominated for a constituency, the Electoral Commission shall by notice published in the *Gazette* extend the period for the receipt by the returning officer of nominations.

No nomination of candidate

15. If at the end of the period allowed for nomination there shall be only one candidate duly nominated in a constituency, the returning officer shall publicly declare that candidate to be elected, and shall immediately thereafter inform the supervisor of elections of the name of the elected candidate and the constituency for which he has been elected. Such candidate shall thereupon be a member of the Assembly.

Procedure for uncontested election 27 of 1971

16.—(1) When two or more persons have been duly nominated as candidates for election in any constituency, the returning officer in such constituency shall, as soon as practicable after the close of the period for nomination, and in such manner as the supervisor of elections shall direct, give public notice that a poll is to be taken and such notice shall state—

Procedure when poll to be held

(a) the names of the candidates in alphabetical order of surnames;

(b) the day or days and the times on which the poll shall be held;

(c) the location of the polling station or stations;

(d) the voters assigned to each polling station; and

(e) the polling day assigned for any category of voters.

(2) The returning officer may, with the consent of the supervisor of elections, alter the provisions of a public notice given under subsection (1) and any such alteration shall be published in the same manner as the notice.

Death or  
disqualifica-  
tion of  
candidate

17.—(1) If the returning officer is satisfied that a duly nominated candidate died or became disqualified after the commencement but before the close of the period prescribed for the poll, he shall forthwith stop all proceedings relating to that election and shall notify the Electoral Commission.

(2) The Electoral Commission, after being so informed of the death or disqualification of a duly nominated candidate, shall, so far as it concerns the constituency in which the deceased or disqualified person was a candidate, declare that all proceedings relating to that election are void, and proceedings shall be commenced afresh in the same manner as if a vacancy had occurred:

Provided that no new nomination shall be necessary in the case of any candidate who was duly nominated at the time when the proceedings were declared void.

Presiding  
officers and  
polling assis-  
tants

18.—(1) In each constituency in which a poll is to be taken the returning officer shall appoint a presiding officer to preside at each polling station and shall likewise appoint polling assistants to assist the presiding officer in carrying out his duties.

(2) In the absence of the presiding officer from any polling station a polling assistant shall act as presiding officer.

Voting and  
poll

19.—(1) No person may vote at any election in a constituency unless he is a voter in that constituency or otherwise than in accordance with section 21.

(2) The votes at the poll shall be cast by secret ballot, the result shall be ascertained by counting the votes given to each candidate, and the candidate to whom the greatest number of votes has been given shall be declared to have been elected.

(3) The poll shall commence at 6 o'clock in the morning and shall close at 6 o'clock in the evening unless the presiding officer for good cause otherwise orders.

Voting in  
person only

20.—(1) A person who is for any reason unable to attend in person at the polling station assigned to him shall not be entitled to record his vote, whether by post or by proxy or by other means.

(2) No person shall receive a ballot paper on behalf of or in the name of any other person, and any person who tenders to an

election officer a document which was not issued to him or not in his name, with the intention of obtaining thereby a ballot paper, shall be liable to a fine of £100 and to imprisonment for six months.

**21.—**(1) The presiding officer shall keep order in his polling station and shall regulate the number of persons to be admitted to vote at any time. Order in  
polling  
station

(2) No person shall be admitted to vote at a polling station other than the polling station assigned to him:

Provided that any person employed in any official capacity in connection with the election or as a polling agent at any polling station may be authorized in writing by the returning officer to vote at the polling station at which he is on duty, and that polling station shall, for the purposes of this Act, be deemed to be the polling station assigned to such person.

**22.—**(1) Where the proceedings at any polling station are interrupted or obstructed by riot or open violence, the presiding officer may adjourn the proceedings until another day and shall in such case give notice to the returning officer and shall publish the date on which polling will proceed. Adjourn-  
ment of poll

(2) Where a poll is adjourned at any polling station—

(a) the hours of polling on the day to which it is adjourned shall be the same as for the original day; and

(b) reference in this Act to the close of the poll shall be construed accordingly.

**23.—**(1) Any person who— Offences

(a) forges any nomination paper, or delivers to the returning officer any nomination paper knowing it to be forged, or subscribes his signature to any nomination paper knowing that any of its contents are false;

(b) forges any ballot paper;

(c) without due authority supplies a ballot paper to any person;

(d) not being entitled by or under this Act to be in possession of a ballot paper, has a ballot paper in his possession;

(e) puts into any ballot box anything other than the ballot paper which he is authorized by or under this Act to put in;

(f) without due authority, the onus of proof of which shall be on the person charged with the offence, destroys, takes, opens or otherwise interferes with any ballot box or packet of ballot papers in use or intended to be used for the purposes of an election;

(g) without due authority prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election;

(h) obtains or attempts to obtain more than one ballot paper whether in his own name or in the name of some other person, whether that name be the name of a person living or dead or of a fictitious person;

(i) casts more than one vote in any election;

(j) for the purpose of corruptly influencing any person to give or withhold his vote, or to sign or refrain from signing any nomination paper, gives or provides, or causes to be given or provided, any food, drink, entertainment or other advantage in cash or in kind or promises so to do; or

(k) uses or threatens to use any force or restraint in order to induce or compel a person to give or withhold his vote or to sign or refrain from signing any nomination paper,

shall be liable to a fine of £500 and to imprisonment for two years, and shall be disqualified for a period of seven years from the date of his conviction from being elected as a member of the Assembly and, if at that date he has been elected as a member, his election shall be deemed void as from the date of such conviction.

Cap. 8:01

(2) Every offence under this section shall be cognizable offence within the meaning of the Criminal Procedure and Evidence Code.

Maintenance  
of secrecy

**24.**—(1) Every election officer, candidate, election representative, polling agent or other person in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, to any person any information as to the name of any voter who has or has not applied for any ballot paper or voted at that station; and no such officer, candidate, representative, agent or other person shall interfere with a voter after he has received a ballot paper and before he has placed the same in a ballot box.

(2) No person, other than the presiding officer aiding an incapacitated voter in accordance with regulations made under this Act, shall attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted.

(3) Any person who contravenes this section shall be liable to a fine of £100 and to imprisonment for six months.

## PART III

## AVOIDANCE OF ELECTIONS AND ELECTION PETITIONS

25.—(1) An election shall not be questioned save on an election petition requesting— Election petitions

(a) that the election be declared void, and if appropriate, it be declared that a certain person was entitled to be a candidate at the election; or

(b) that an unsuccessful candidate be declared elected.

(2) An election petition—

(a) may be presented by a voter or a candidate at the election, or a person claiming to have had the right to be nominated or elected at such election; and

(b) shall be presented to the Registrar of the High Court within twenty-one days of the declaration of the result of the election.

26. Every election petition shall be heard by the High Court. Hearing of election petition

27.—(1) An election shall be declared void on any of the following grounds which are proved to the satisfaction of the court— Grounds for declaring an election void

(a) that voters were corruptly influenced in their voting contrary to section 23 (1) (j) or induced or compelled in their voting contrary to section 23 (1) (k), or had their ballot papers improperly rejected, or voted more than once;

(b) that persons not entitled to them were improperly granted ballot papers; or

(c) that persons entitled to them were improperly refused ballot papers:

Provided that the court shall not declare an election void, after proof of any ground in paragraphs (a), (b) or (c), if it is satisfied that the number of votes involved could not have affected the result of the election;

(d) non-compliance with this Act in the conduct of the election:

Provided that, if the court is satisfied that any failure to comply with this Act did not affect the result of the election, it shall not declare the election void;

(e) that the candidate was at the time of his election a person not qualified for election or that he was not properly nominated, or that a duly qualified candidate had his nomination improperly rejected by the returning officer.

(2) The court shall have power to direct scrutiny and recount of votes if it is satisfied, during proceedings on an election petition, that such scrutiny and recount are desirable.

Report of court as to validity of election

28. At the conclusion of the trial of an election petition the court shall determine whether the member whose nomination or election is complained of, or any other and what person was duly nominated or elected, or whether the election was void, and shall report such determination to the Electoral Commission. Upon such report being given such determination shall be final.

Procedure

29. The Chief Justice may make rules and prescribe fees regarding the procedure and practice in relation to election petitions.

## PART IV

### GENERAL

Failure to elect a member

30. If after the holding of a general election a member has not been elected in one or more constituencies, a session of the Assembly may commence notwithstanding any such vacancy.

Loss of confidence of voters

31.—(1) The President may, where he is satisfied that there is reason to believe that a member of the Assembly no longer commands the confidence and support of a majority of the voters in the constituency where he was elected, appoint a Commission of Inquiry to consider and report upon the confidence reposed in that member by such voters.

Cap. 18:01

(2) A Commission appointed under subsection (1) shall have all the powers of a Commission of Inquiry appointed under the Commissions of Inquiry Act.

(3) If upon consideration of a report from the Commission of Inquiry the President is satisfied that the member no longer commands the confidence and support of a majority of the voters in the constituency concerned, he shall notify the Speaker accordingly, and thereupon that member shall vacate his seat in the Assembly.

(4) Any person whose seat becomes vacant under this section shall be disqualified for a period of five years to be elected again as a member of the Assembly.

Regulations

32. The Electoral Commission may make regulations for carrying this Act into effect.

SCHEDULE

s. 9

FORM OF NOMINATION PAPER FOR CANDIDATE

To: The Returning Officer, Constituency of .....

We, the undersigned, whose names appear on the Register of Voters for the above constituency, hereby nominate:

Mr./Mrs./Miss ..... **Use Block Letters**  
 (first name) (surname)  
 (insert full residential address) of .....

.....  
 .....

as a candidate to fill the vacancy in the National Assembly for the above-named constituency.

	<i>Surname</i>	<i>Signature</i>	<i>Registration particulars</i>
Nominated by (1) (2)			

I (candidate's name in full) .....  
 being qualified for election as a member of the National Assembly,  
 do hereby accept the above nomination, and tender the following  
 supporting documents—

(a) evidence/statutory declaration that—

(i) I have attained the age of 25 years; or

(ii) in my case the President has specified the age of 21 years  
 and I have attained that age;

(b) evidence/statutory declaration that I am able to speak and  
 to read the English language well enough to take an active part in  
 the proceedings of the Assembly;

(c) evidence of my registration as a voter in the constituency of  
 .....; and

(d) evidence of my membership of the Party.

(Signature of candidate) .....

(Date) .....



LAWS OF MALAWI

REGISTRATION OF VOTERS

CHAPTER 2:03

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Malawi Age and Residence Certificate

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Application for Transfer of Registration

## CHAPTER 2:03

## REGISTRATION OF VOTERS

27 of 1966  
5 of 1971

An Act providing for the registration of voters for Presidential and Parliamentary Elections and for matters connected therewith

[6TH JULY, 1966]

## PART I

## PRELIMINARY

Short title

1. This Act may be cited as the Registration of Voters Act.

Interpreta-  
tion

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

“age and residence certificate” means the certificate provided for under section 6;

“authorized officer” means a person appointed by the registration supervisor under section 3 to issue age and residence certificates;

“constituency” means an area delimited as such under section 8 of the Republic of Malawi (Constitution) Act, or under section 31 of the Constitution;

“the Electoral Commission” means the Electoral Commission established by section 30 of the Constitution;

“publication” means the publication in such manner as the registration supervisor or registration officer shall consider suitable to bring the matter to the attention of the persons concerned, and cognate expressions shall be construed accordingly;

“registration district” or “registration sub-district” means a registration district or a registration sub-district established under section 4;

“registration officer” means a person appointed as such under section 3 and includes an assistant registration officer;

“registration supervisor” means a person appointed as such under section 3 and includes the deputy registration supervisor and any assistant registration supervisor.

Appoint-  
ments

3.—(1) The Electoral Commission shall appoint a registration supervisor and may appoint a deputy registration supervisor and

assistant registration supervisors all of whom shall, in the exercise of their functions, be subject to the general and special directions of the Electoral Commission.

(2) The registration supervisor shall—

(a) exercise general direction and supervision over the administrative conduct of the registration of voters and shall enforce on the part of all registration officers and authorized officers fairness, impartiality and compliance with this Act;

(b) issue to registration officers and authorized officers such instructions as from time to time he may deem necessary to ensure effective execution of this Act; and

(c) perform all other functions which by or under this Act are assigned to him.

(3) Every District Commissioner shall be *ex officio* a registration officer and shall be responsible for the maintenance of voting registers for such constituencies as the registration supervisor may, by order which shall be published in the *Gazette*, assign to him.

(4) The registration supervisor may appoint such number of assistant registration officers in each registration district as he may deem necessary and an assistant registration officer so appointed may be appointed to be in charge of any one or more registration sub-districts.

(5) Subject to such directions as the registration officer may from time to time issue, an assistant registration officer may exercise and perform all the powers and duties of a registration officer.

(6) The registration supervisor may appoint such number of authorized officers in each registration district as he may deem necessary or may nominate any class or classes of persons as he may specify from which the registration officer in any area may appoint authorized officers for that area.

## PART II

### REGISTRATION OF VOTERS

4.—(1) Each constituency of Malawi shall be a registration district. Registration districts and sub-districts

(2) The registration supervisor shall divide any registration district into such registration sub-districts as may be necessary for ease in administration and shall notify the appropriate registration officer accordingly.

Registration 5. Every person who is qualified under section 29 of the Constitution to be registered as a voter may apply at any time for registration as a voter in the registration district in which he either—

- (a) is ordinarily resident; or
- (b) was born; or
- (c) is employed or carries on a business.

Age and  
residence  
certificate

6.—(1) Every applicant for registration as a voter shall obtain from an authorized officer an age and residence certificate in the form set out in the First Schedule to this Act or in a form substantially to the like effect, and such form shall be completed by the authorized officer from information supplied by such applicant if the authorized officer is satisfied that such information is correct.

(2) After obtaining the certificate required in subsection (1), the applicant shall thereupon in person present it to the appropriate registration officer who shall, if he is satisfied that the applicant is qualified to be registered as a voter, enter the particulars stated on the certificate in a registration amendment list and shall endorse the certificate and return it to the applicant, who may be required to produce it when applying for a ballot paper at any subsequent election.

G.N.  
255/1963

(3) An age and residence certificate issued under the National Assembly (Registration of Voters) Regulations 1963 (now revoked), shall be deemed to have been issued under this Act.

⊙

Publication  
of new  
voters list

7.—(1) The registration officer shall at intervals of not less than six months nor more than twelve months and at such other times as may be directed by the registration supervisor, publish in each registration district for which he is responsible a request for all qualified persons who are not then registered in any constituency to register as voters.

(2) Not less than two weeks following the publication of such request, the registration officer shall publish in a registration amendment list the names of persons who have applied for registration since the last publication of such list, affording an opportunity for objection to be made.

(3) The registration officer shall allow a period of not less than two weeks following the publication of such amendment list during which time a person who believes his name wrongfully to have been omitted may object.

(4) A voter registered in a constituency may, within the period allowed under subsection (3), object to the inclusion in the register of the name of any person whose name appears in an

amendment list for that constituency published under subsection (2).

(5) An objection under this section shall be made in such manner as may be prescribed by the Electoral Commission or directed by the registration supervisor, and shall contain the grounds on which the objection is made.

8.—(1) The registration officer shall at intervals of not less than six months nor more than twelve months and at such other times as may be directed by the registration supervisor, publish in each registration district for which he is responsible a request for information of persons whose names should be struck off the voting register on the grounds of death or disqualification. Deletion of names

(2) Not less than two weeks following the publication of such request the registration officer shall publish in a registration amendment list the names of persons he proposes to strike off the register, affording an opportunity for objections to any such proposal.

(3) The registration officer shall allow a period of not less than two weeks following the publication of such amendment list during which period a person whose name is proposed for deletion may object.

(4) An objection under this section shall be made in such manner as may be prescribed by the Electoral Commission or directed by the registration supervisor, and shall contain the grounds on which the objection is made.

9.—(1) A voter who is registered in a constituency and who is qualified by residence, birth, employment or business to be registered in any other constituency, may make application on the prescribed form set out in the Second Schedule to transfer his name to the register for such other constituency. Transfer of registration

(2) An application made under subsection (1) shall be duly completed and signed by the voter and sent to the registration officer of the constituency to which the voter's name is to be transferred.

(3) If the registration officer is satisfied that the voter is entitled to transfer, he shall forward the application to the registration supervisor, who shall, subject to section 11, cause the voter's name to be removed from the register on which it is registered and to be entered on the register for the constituency in which the voter has become qualified for registration.

9A. Where, by reason of an alteration of boundaries made by the Electoral Commission pursuant to section 31 of the Constitution, the place of birth, residence or work, as the case may be, of any registered voter is no longer within the boundaries of the constituency in which such voter is registered, such registration Effect of alteration of boundaries  
5 of 1971

shall not be avoided by reason of such alteration of boundaries but shall be deemed for the purposes of this Act to be registration within the constituency in which such place of birth, residence or work is actually situate.

Duties of registration officers on alteration of boundaries

5 of 1971

**9B.** Where, by reason of an alteration of boundaries pursuant to section 31 of the Constitution, any area which previously formed part of any constituency becomes another constituency, or part thereof, the registration officer for the original constituency shall, as soon as practicable, remove from the register for such original constituency the entries attributable to the area aforesaid and shall transmit particulars of such entries to the registration officer for such other constituency who shall forthwith cause the same to be included among the entries in the register of voters for his constituency.

Certification of new register

**10.—(1)** At any time directed by the registration supervisor but at periods of not less than five years, registration officers shall prepare and certify a final register in respect of the registration districts required by the registration supervisor, taking into account any registration amendment lists prepared under section 6, 7 or 8 since the last such certified register, and showing therein the name of every voter registered as such in respect of each such registration district:

Provided that the registration officer may certify any register in accordance with this section pending the hearing of any appeal brought under section 14 but shall thereafter insert or delete from the register the name of any person in accordance with the determination of such appeal.

(2) When such final register has been certified the registration officer shall give notice, in such manner as the registration supervisor may determine, that such certified register or a copy thereof is open for inspection at such place or places and during such hours as may be specified in such notice.

G.N.  
255/1963

(3) The register last certified in every constituency under the National Assembly (Registration of Voters) Regulations, 1963 (now revoked), shall be deemed to have been prepared and certified under this Act.

Cessation of registration

**11.** Registration under sections 6, 7, 8 and 9 shall cease in such constituencies and for such period after certification of a register as may from time to time be directed by the registration supervisor:

Provided that the register may be altered for the correction of any obvious mistake or omission or for any adjustment resulting from the determination of an appeal.

**12.** Subject to section 11, the certified final register of voters in respect of each constituency shall be conclusive evidence for the purposes of determining whether a person is or is not entitled to vote in the election next following the certification of the register in that registration district:

Register to be conclusive evidence

Provided that no female voter shall be disqualified from voting under the name appearing in the register solely by reason of her having changed her name upon marriage.

**13.** At any time after the certification of the register in accordance with section 10, the registration supervisor may order the registration officer in any registration district or sub-district to open a supplementary register and to invite persons to apply for registration in the manner provided in sections 6, 7 and 8:

Supplementary registers

Provided that no person whose name is registered on a supplementary register shall be eligible to vote at an election until such supplementary register has been certified and exhibited as provided in section 10.



## PART III

## APPEALS

**14.—**(1) Any person aggrieved because an authorized officer refuses to furnish him with the certificate referred to in section 6 (1), or furnishes him with such a certificate containing particulars other than those which that person desires to be entered thereon, may appeal to the registration officer who, after making such inquiries as he may deem necessary, may—

Appeals

- (a) confirm the refusal of the certificate;
- (b) decline to alter any certificate issued; or
- (c) issue a certificate containing such particulars as he may think proper.

(2) Any person who—

- (a) is aggrieved by a refusal to include his name in a registration amendment list under section 6 (2);
- (b) is dissatisfied with a decision of a registration officer under subsection (1); or
- (c) having had his name entered in a registration amendment list under section 6 (2), is aggrieved by the absence of his name on a register certified under section 10 or 13,

may, in accordance with rules made by the Chief Justice, appeal to a judge of the High Court or any magistrate nominated in that behalf by the Chief Justice.

(3) The decision of a judge or magistrate nominated under subsection (2) shall be final and conclusive and shall not be the subject matter of any further appeal.

## PART IV

## MISCELLANEOUS

**15.** If solely through accident, inadvertence or oversight, anything required by law to be done in the preparation or amendment of any register or copy thereof is omitted to be done, the registration supervisor may order such steps to be taken as may, in his opinion, be necessary to rectify the omission.

Rectification of omissions

**16.—**(1) In the performance of his duties under this Act, the registration supervisor, any registration officer or any authorized officer shall have power to request from any person any information necessary to enable him to ascertain what persons are qualified to be registered as voters, or to identify any person for the purposes of this Act, or to ascertain whether any person is dead or is qualified for, or disqualified from, registration as a voter.

Power to request information

(2) Any person who, upon request being made to him under this section, wilfully refuses to give any such information as he possesses or unreasonably delays in giving the same, shall be liable to a fine of £10.

Inaccurate  
description  
of persons  
or places

17. Inaccuracy in description of any person or place shall not affect the operation of this Act in respect of that person or place if that person or place is so described as to be identifiable.

Defacement  
of notices

18. Any person who without lawful authority destroys, mutilates, defaces or removes any notice which is exhibited under the authority of this Act or any document which is made available for inspection in accordance with this Act, shall be guilty of an offence and shall be liable to a fine of £50 and to imprisonment for six months.

Translation  
of forms

19. The registration supervisor shall be responsible for the production of accurate translations into such languages as he deems necessary of such forms as he thinks are required.

General  
offences and  
penalties

20. Any person who—

(a) makes any false statement of fact in respect of any application for registration as a voter, knowing the statement to be false, or not believing it to be true;

(b) after a request made upon him under section 16, furnishes any false information knowing the same to be false, or not believing it to be true;

(c) in the name of any other person, whether living, dead or fictitious, makes application to be registered as a voter;

(d) by himself for any other person procures or attempts to procure the registration of himself or any other person in any registration district knowing that he or such other person is not entitled to be registered therein or is already registered therein;

(e) by any other person procures, or attempts to procure, or takes part in procuring the registration of a fictitious person; or

(f) knowingly applies to have his name entered on the register of a registration district or registration sub-district while his name is registered on the register of another registration district or registration sub-district or who, having applied and not having withdrawn his application to have his name entered on the register of a registration district or sub-district, applies to have his name entered on the register of another registration district or registration sub-district,

shall be liable to a fine of £100 and to imprisonment for one year.

Sale of  
copies of  
register

21. The registration supervisor may prescribe fees for the sale of copies of any certified register or a part thereof and shall pay any sums realized from such sales into the Consolidated Fund.

Regulations

22. The Electoral Commission may make regulations for carrying this Act into effect.

FIRST SCHEDULE

s. 6

No.....

MALAWI AGE AND RESIDENCE CERTIFICATE

To the best of my knowledge and belief—

(USE BLOCK LETTERS).....

(Surname) (First Names) (Sex)

..... Village, Chief.....

- (a) is a citizen of Malawi;
- (b) has attained the age of 21 years;
- (c) is ordinarily resident in Malawi and has been ordinarily resident in Malawi at some time for a continuous period of two years: and
- (d) either—
  - ( ) is ordinarily resident in the village/township of.....
  - ( ) was born in the village/township of .....; or
  - ( ) is employed/carries on a business in the village/township of .....

Date.....(Signature).....

Authorized Officer

SECOND SCHEDULE

s. 9

APPLICATION FOR TRANSFER OF REGISTRATION

Serial No.....

To: the Registration Officer,  
Constituency of.....

(USE BLOCK LETTERS).....

(Surname) (First Names) (Sex)

.....Village, Chief.....

I DECLARE THAT—

- (i) I am registered on the register for the Constituency of..... as registered voter No. ....
- (ii) I am ordinarily resident/was born/am employed/am carrying on a business\* in the Constituency of.....
- (iii) My address is.....

THEREFORE APPLY to have my name withdrawn from the register for the Constituency of.....and transferred to the register for the Constituency of .....

Date..... Signature or thumbprint.....

\*Delete as appropriate

[Subsidiary]

*Registration of Voters Regulations*

**SUBSIDIARY LEGISLATION**

G.N.  
182/1967  
188/1970

**REGISTRATION OF VOTERS REGULATIONS**

*under s. 22*

**PART I**

**PRELIMINARY**

Citation and application

1. These Regulations may be cited as the Registration of Voters Regulations and shall apply in respect of the registration of voters for Presidential and Parliamentary Elections.

Appointments

2. The Electoral Commission shall appoint a Registration Supervisor and may appoint a Deputy Registration Supervisor and Assistant Registration Supervisors.

**PART II**

**REGISTRATION OF VOTERS**

Categories of voters

3. A person will be qualified to register as a voter if he is qualified under section 29 of the Constitution.

Registration districts and sub-districts

4. The Registration Supervisor shall divide each registration district into such registration sub-districts as he may think necessary for ease in administration and shall notify the appropriate registration officer accordingly, and shall publish in the *Gazette* and in such other places and manner as he thinks necessary a notice specifying such registration sub-districts.

Period of registration

5.—(1) As soon as may be convenient after the publication of the notice provided for in regulation 4, the Registration Supervisor shall, by notice published in the *Gazette*, notify the period, being a period of not less than two weeks (hereinafter referred to as "the registration period") during which registration shall take place or such greater period as may be determined by the Registration Supervisor, provided that the Registration Supervisor may extend such period in respect of any registration district or sub-district by further notice published in the *Gazette* if, in his opinion, the circumstances warrant such extension.

G.N.  
188/1970

(2) Upon the publication of the notice provided for in paragraph (1) the Registration Officer shall forthwith publish notices in each registration district in such terms and in such manner as he thinks fit inviting every person who is qualified to vote either as having been:

- (a) ordinarily resident; or
- (b) born; or
- (c) employed or carrying on business within the Electoral District in respect of which the notice is published.

6. On the expiration of the registration period, the Registration Supervisor shall, when each register is completed, give notice in the *Gazette* and in such other manner as he may in his discretion determine that the register or a copy thereof is open for inspection at such place or places within the registration area covered and during such hours as may be specified in such notice.

Register to be open for inspection

PART III

CLOSING OF REGISTERS AND PREPARATION OF FINAL REGISTERS

7. At the end of the registration period the registers shall be closed and shall not be altered except for adjustments resulting from the determination of appeals:

Closing of Registers

Provided that any register may be altered at any time by the Registration Supervisor or by a Registration Officer acting under the directions of the Registration Supervisor for the purpose of:

- (a) correcting any obvious mistake or omission;
- (b) striking out the name of any dead person;
- (c) striking out the name of any person who has become disqualified as a voter.

8. All additions and alterations to a register of voters pursuant to these Regulations shall be made by the Registration Officer in accordance with these Regulations or with such directions as he shall receive from the Registration Supervisor.

Amendment of Registers

PART IV

MISCELLANEOUS

9. No misnomer or inaccurate description of any person or place named or described in any register, notice or other document, whatsoever, prepared or issued under or for the purposes of these Regulations, shall in any way affect the operation of the Regulations as respects that person or place, if that person or place is so designated in such register, notice or document as to be identifiable.

Inaccurate description of places and persons

**LAWS OF MALAWI**

**NATIONAL ASSEMBLY  
(POWERS AND PRIVILEGES)**

**CHAPTER 2:04**

*Containing Pages 1-12*

**CHAPTER 2:04**

**NATIONAL ASSEMBLY**

**(POWERS AND PRIVILEGES)**

**ARRANGEMENT OF SECTIONS**

**PART I**

**SHORT TITLE AND INTERPRETATION**

**SECTION**

1. Short title
2. Interpretation

**PART II**

**PRIVILEGES AND IMMUNITIES**

3. Immunity from legal proceedings
4. Freedom from arrest
5. Exercise of civil process
6. Entry to Assembly
7. Regulation of admission to Assembly
8. Order of withdrawal from Assembly

**PART III**

**EVIDENCE**

9. Power to order attendance of witnesses
10. Attendance to be notified by summons
11. Power to issue warrant to compel attendance
12. Witnesses may be examined on oath
13. Objection to answer question or to produce papers
14. Privileges of witnesses
15. Evidence of proceedings in Assembly or committee not to be given without leave
16. Questions relating to evidence and production of documents before the Assembly, or committee to be determined in accordance with usage of United Kingdom Parliament

**PART IV**

**OFFENCES AND PENALTIES**

17. Proceedings to be deemed judicial proceedings for certain purposes
18. Offences relating to admittance to the Assembly
19. Other offences
20. Acceptance of bribes by members

PART V

MISCELLANEOUS

SECTION

21. United Kingdom Commons Journals to be *prima facie* evidence in inquiries touching privilege
22. Journals printed by the Government Printer to be admitted as evidence
23. Penalty for printing false copy of Act, journal, etc.
24. Protection of persons responsible for publications authorized by the Assembly
25. Publication of proceedings without malice
26. Exercise of jurisdiction by courts
27. Powers of officers
28. Power of arrest
29. Speaker may order words out of order not to be published
30. Sanction for prosecutions
31. Rules

CHAPTER 2:04

NATIONAL ASSEMBLY

(POWERS AND PRIVILEGES)

4 of 1957  
G.N.22/1963  
16/1964(M)  
137/1966  
166/1967

**An Act to declare and define certain Powers, Privileges and Immunities of the National Assembly and of the Members of such Assembly, to secure Freedom of Speech in the National Assembly, to regulate Admittance to the Precincts of the National Assembly, to give Protection to the Persons employed in the Publication of the Reports and other Papers of the National Assembly and for purposes incidental to or connected with the matters aforesaid**

[13TH FEBRUARY, 1957]

PART I

SHORT TITLE AND INTERPRETATION

**Short title**      1. This Act may be cited as the National Assembly (Powers and Privileges) Act.

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

“Assembly” means National Assembly of Malawi;

“Clerk” means the Clerk of the National Assembly;

“committee” means any standing, sessional, select or other committee of the Assembly;



“journals” means the minutes of the Assembly or the official record of the votes and proceedings thereof;

“member” means any member of the Assembly;

“officer of the Assembly” means the Clerk or any other officer or person acting within the precincts of the Assembly, other than when serving a summons under section 10 (3), under the orders of the Speaker, and includes any police officer on duty within the precincts of the Assembly;

“police officer” has the same meaning as in the Police Act;

Cap. 13:01

“precincts of the Assembly” means the chamber and offices of the Assembly and the galleries and places provided for the use or accommodation of strangers, members of the public, and representatives of the press, and includes, while the Assembly is sitting, and subject to any exceptions made by direction of the Speaker, the entire building in which the chamber of the Assembly is situated, and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the Assembly;

“Speaker” means the Speaker of the Assembly and includes any other member when such other member is presiding at a meeting of the Assembly;

“Standing Orders” means the Standing Orders of the Assembly for the time being in force;

“stranger” means any person other than a member or an officer of the Assembly.

## PART II

### PRIVILEGES AND IMMUNITIES

3. No civil or criminal proceedings may be instituted against any member for words spoken before, or written in a report to, the Assembly or to a committee, or by reason of any matter or thing so brought by him by petition, Bill, motion or otherwise.

Immunity  
from legal  
proceedings

4. No member shall be liable to arrest—

Freedom  
from arrest

(a) for any civil debt whilst going to, attending at or returning from a sitting of the Assembly or any committee;

(b) within the precincts of the Assembly while the Assembly or a committee is sitting, for any criminal offence without the consent of the Speaker.

5. No process issued by any court in the exercise of its jurisdiction shall be served or executed within the precincts of the

Exercise of  
process

Assembly while the Assembly is sitting or through the Speaker, the Clerk or any officer of the Assembly.

Entry to  
Assembly

6. No stranger shall be entitled, as of right, to enter or to remain within the precincts of the Assembly.

Regulation  
of admission  
to Assembly

7.—(1) The Speaker is hereby authorized to issue such orders as he may in his discretion deem necessary for the regulation of the admittance of strangers to the precincts of the Assembly.

(2) Copies of orders made under this section shall be duly authenticated by the Clerk and exhibited in a conspicuous position in the precincts of the Assembly; and such copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

Order of  
withdrawal  
from As-  
sembly

8. The Speaker may at any time order any stranger to withdraw from the precincts of the Assembly.

### PART III

#### EVIDENCE

Power to  
order atten-  
dance of  
witnesses

9. The Assembly or any committee may, subject to section 14 and section 16, order any person to attend before the Assembly or before such committee and to give evidence or to produce any paper, book, record or document in the possession or under the control of such person.

Attendance  
to be noti-  
fied by sum-  
mons

10.—(1) Any order to attend to give evidence or to produce documents before the Assembly or a committee shall be notified to the person required to attend or to produce the documents by a summons, in such form as may be prescribed, under the hand of the Clerk issued by the direction of the Speaker or, in the case of a committee, by the chairman and so described on the face of such summons. Every such summons, if purporting to bear the signature of the Clerk, shall be deemed *prima facie* to be lawful and to be issued by the direction of the Speaker or the chairman as the case may be.

(2) In every summons under subsection (1) there shall be stated the time when and the place where the person summoned is required to attend and the particular documents which he is required to produce and the summons shall be served on the person mentioned therein either by delivering to him a copy thereof or by leaving a copy thereof at his usual or last known place of abode in Malawi, with some adult person; and there shall be paid or tendered to the person so summoned, if he does not reside within four miles of the place of attendance specified in the summons, such sum for his expenses as may be prescribed by Standing Orders.

(3) A summons under this section may be served by an officer of the Assembly or by a police officer.

11.—(1) If a person to whom a summons under section 10 is directed does not attend before the Assembly or the committee at the time and place mentioned therein, the Speaker may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed wilfully avoids service, direct the Clerk to issue a warrant, in such form as may be prescribed, to apprehend him and bring him, at a time and place to be stated in the warrant, before the Assembly or committee.

Power to issue warrant to compel attendance

(2) A warrant issued under this section shall be executed by a police officer.

(3) The Speaker, on directing the issue of a warrant under this section, may, if he thinks fit, by ordering an appropriate endorsement on the warrant, direct that the person named in the warrant be released after arrest on his entering into such a recognizance before a court for his appearance before the Assembly or committee as may be required in the endorsement.

(4) Every warrant issued under this section and every endorsement upon such warrant shall, if purporting to bear the signature of the Clerk, be deemed *prima facie* to be lawful and to be issued or made under the direction or order of the Speaker.

12. The Assembly or any committee empowered to order the attendance of witnesses may require that any facts, matters and things relating to the subject of inquiry before the Assembly or such committee be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath, which the Clerk or the chairman of the committee or other person specially appointed for that purpose by the Assembly or by such committee is hereby authorized to administer.

Witnesses may be examined on oath

13.—(1) Subject to section 14, where any person ordered to attend to give evidence or to produce any paper, book, record or document before the Assembly refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of such question or the production of such paper, book, record or document, or may order the answering or production thereof.

Objection to answer question or to produce papers

(2) Subject to section 14, where any person ordered to attend or to give evidence or to produce any paper, book, record or document before any committee refuses to answer any question that may be put to him or to produce any such paper, book, record or document on the ground that the same is of a private

nature and does not affect the subject of inquiry, the chairman of the committee may report such refusal to the Speaker with the reasons therefor; and the Speaker may thereupon excuse the answering of such question or the production of such paper, book, record or document or may order the answering or production thereof.

Privileges of witnesses

14.—(1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Assembly or a committee thereof shall be entitled, in respect of such evidence or the disclosure of any communication or the production of any such paper, book, record or document to the same right or privilege as before a court of law.

(2) Except with the consent of the President, no person in the employment of the Government shall—

(a) produce before the Assembly or a committee any paper, book, record or document; or

(b) give before the Assembly or a committee evidence, relating to the correspondence of any naval, military or air force matter; nor shall secondary evidence be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document.

(3) Except when in the opinion of the President it would be contrary to the public interest and the President so directs, no person in the employment of the Government shall refuse—

(a) to produce before the Assembly or a committee any paper, book, record or document; or

(b) to give before the Assembly or a committee evidence, relating to the correspondence of any civil department or to any matter affecting the public service; secondary evidence shall not be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document which the President has directed shall not be produced.

(4) An answer by a person to a question put by the Assembly or a committee shall not, except in the case of criminal proceedings under sections 105, 109, 110 and 112 of the Penal Code or of an offence against this Act, be in any proceedings, civil or criminal, admissible in evidence against him.

Cap. 7:01

Evidence of proceedings in Council or committee not to be given without leave

15.—(1) Save as provided in this Act, no member or officer of the Assembly and no person employed to take minutes of evidence before the Assembly or any committee shall give evidence elsewhere in respect of the contents of such minutes of evidence or of the contents of any document laid before the Assembly or such committee, as the case may be, or in respect of any proceedings or examination held before the Assembly or such committee,

as the case may be, without the special leave of the Assembly first had and obtained.

(2) The special leave referred to in subsection (1) may be given during a recess or adjournment by the Speaker, or during any dissolution of the Assembly, by the President.

16. Where at any time any question arises in the Assembly or in a committee in regard to—

(a) the right or power of the Assembly or a committee to hear, admit or receive oral evidence; or

(b) the right or power of the Assembly or a committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee; or

(c) the right or privilege of any person (including a member of the Assembly or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Assembly or committee,

that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of the Commons House of Parliament of the United Kingdom.

Questions relating to evidence and production of documents before the Assembly or committee to be determined in accordance with usage of Parliament

#### PART IV

#### OFFENCES AND PENALTIES

17. Any proceedings before the Assembly or a committee thereof at which any person gives evidence or produces any paper, book, record or document, shall be deemed to be judicial proceedings for the purposes of sections 105, 109, 110 and 112 of the Penal Code.

Proceedings to be deemed judicial proceedings for certain purposes  
Cap. 7:01

18. Any person who—

(a) being a stranger enters or attempts to enter the precincts of the Assembly in contravention of any order of the Speaker; or

(b) being a stranger fails or refuses to withdraw from the precincts of the Assembly when ordered to withdraw therefrom by the Speaker; or

(c) being a stranger contravenes any order made under this Act by the Speaker regulating the admittance of strangers to the precincts of the Assembly or any rule made by the Speaker under the Standing Orders; or

Offences relating to admittance to the Assembly

(d) attends any sitting of the Assembly as the representative of any journal after the general permission granted under any order made under this Act or under the Standing Orders to the representative or representatives of that journal has been revoked,

shall be liable to a fine of £25 and to imprisonment for three months.

Other offences

19. Any person who—

(a) disobeys any order made by the Assembly or a committee for attendance or for production of papers, books, documents or records, unless such attendance or production be excused as hereinbefore provided; or

(b) refuses to be examined before, or to answer any lawful and relevant question put by the Assembly or a committee, unless such refusal be excused as hereinbefore provided; or

(c) offers to any member or officer of the Assembly any bribe, in order to influence him in his conduct as such member or officer, or offers to any member or officer of the Assembly any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill or matter submitted to or intended to be submitted to the Assembly or any committee; or

(d) assaults, obstructs, molests or insults any member coming to, being within, or going from the precincts of the Assembly, or endeavours to compel any member by force, insult or menace to declare himself in favour of or against any proposition or matter pending in or expected to be brought before the Assembly or any committee; or

(e) assaults, molests, insults, resists or obstructs any officer of the Assembly while in the execution of his duty or while proceeding to or from the Assembly knowing or having reasonable grounds for believing him to be such an officer; or

(f) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly or any committee while the Assembly or such committee is sitting; or

(g) presents to the Assembly or a committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or such committee; or

(h) utters or publishes any false or scandalous slander or libel on the Assembly or upon any member in his capacity as such; or

(i) attempts, directly or indirectly, by fraud, or by threats or intimidation of any kind, to influence a member in his vote,

opinion, judgment or action, upon any question arising in the Assembly or in a committee, or to induce him to absent himself from the Assembly or any committee; or

(j) threatens, assaults or insults a member or an officer of the Assembly on account of his conduct as such member or officer; or

(k) gives false evidence (in the case of witnesses not examined on oath), prevarication or other misconduct as a witness before the Assembly or a committee; or

(l) destroys documents which have been ordered to be produced before the Assembly or a committee; or

(m) endeavours, directly or indirectly, to deter or hinder any person from appearing or giving evidence before the Assembly or a committee; or

(n) tampers with a witness in regard to evidence to be given by him before the Assembly or a committee; or

(o) threatens or in any way punishes, damnifies or injures or attempts to punish, damnify or injure any person for having given evidence before the Assembly or a committee, or on account of the evidence which he has given before the Assembly or a committee; or

(p) publishes any evidence taken by, or document presented to, a committee where such evidence has been taken with closed doors, or where its publication has been expressly prohibited by the Assembly or the committee,

shall be liable to a fine of £200 and to imprisonment for two years.

20. Any member who accepts or agrees to accept or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained shall be liable on conviction before the High Court to a fine of £200 and to imprisonment for two years.

Acceptance  
of bribes by  
members

## PART V

### MISCELLANEOUS

21. Subject to this Act, a copy of the Journals of the Commons House of Parliament of the United Kingdom printed or purporting to be printed by the order or by the Printer of the Commons House aforesaid shall be received as *prima facie* evidence without proof of its being such copy upon any inquiry touching the privileges, immunities and powers of the Assembly or of any member thereof.

Commons  
Journals to  
be *prima  
facie* evi-  
dence in  
inquiries  
touching  
privilege

Journals printed by the Government Printer to be admitted as evidence

22. Upon any inquiry touching the privileges, immunities and powers of the Assembly or of any member, any copy of the journals printed or purporting to be printed by the Government Printer shall be admitted as *prima facie* evidence of such journals in all courts and places without any proof being given that such copy was so printed.

Penalty for printing false copy of Act, journal, etc.

23. Any person who shall print or cause to be printed a copy of any Act now or hereafter in force, or a copy of any report, paper, minutes or votes and proceedings of the Assembly as purporting to have been printed by the Government Printer or by order or under the authority of the Assembly or by order or under the authority of the Speaker, and the same is not so printed, or shall tender in evidence any such copy as purporting to be so printed knowing that the same was not so printed, shall be liable to a fine of £200 and to imprisonment for three years.

Protection of persons responsible for publications authorized by the Assembly

24. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by such person or by his servant, by order or under the authority of the Assembly, of any reports, papers, minutes, votes and proceedings, may, on giving to the plaintiff or prosecutor, as the case may be, twenty-four hours' written notice of his intention, bring before the court in which such civil or criminal proceedings are being held a certificate under the hand of the Speaker stating that the reports, papers, minutes, votes and proceedings in respect whereof such civil or criminal proceedings have been instituted were published by such person or by his servant by order or under the authority of the Assembly together with an affidavit verifying such certificate, and such court shall thereupon immediately stay such civil or criminal proceedings and the same and every process issued therein shall be deemed to be finally determined.

Publication of proceedings without malice

25. In any civil proceedings instituted for publishing any report or summary of or any extract from or abstract of any report, paper, minutes, votes and proceedings of the Assembly, if the court is satisfied that such report, summary, extract or abstract was published in good faith and without malice, judgment shall be entered for the defendant.

Exercise of jurisdiction by courts

26. Neither the Speaker, nor any officer of the Assembly, shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer by or under this Act.

Powers of officers

27. Every officer of the Assembly shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer.



**28.** An Officer of the Assembly may arrest without warrant— Power of arrest

(a) any person who commits any offence contrary to section 18 or 19 in his presence;

(b) any person within the precincts of the Assembly whom he reasonably suspects of having committed, or being about to commit, an offence contrary to either of the said sections.

**29.—**(1) Where the Speaker, under the Standing Orders of the Assembly, rules any words used by a member to be out of order, the Speaker may, in his absolute discretion, order that such words, or any words out of which they arose or arising out of them, shall not be published in any manner. Speaker may order words out of order not to be published

(2) Any person who publishes any words which are the subject of an order made under subsection (1) shall be liable to a fine of £200 and to imprisonment for two years.

**30.** No prosecution for an offence under this Act shall be instituted except with the written sanction of the Director of Public Prosecutions. Sanction for prosecutions

**31.** The President may make Rules prescribing anything which, under this Act, may be or is to be prescribed. Rules

**SUBSIDIARY LEGISLATION**

G.N.68/1957

**ADMITTANCE OF STRANGERS ORDER**

*under s. 7*

1. No man may enter the precincts of the Assembly, that is to say, the top floor of the National Assembly building, while the Assembly is sitting unless he is cleanly and neatly dressed and is wearing a jacket with long trousers, or alternatively a jacket with shorts and stockings. In all cases a tie must be worn.

2. No woman may enter the precincts of the Assembly wearing shorts or trousers of any description.

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**LAWS OF MALAWI**

**PARLIAMENTARY PENSIONS (ENABLING  
PROVISIONS)**

**CHAPTER 2:06**

*Containing Pages 1-7*

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**CHAPTER 2:06**  
**PARLIAMENTARY PENSIONS (ENABLING PROVISIONS)**  
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## CHAPTER 2:06

## PARLIAMENTARY PENSIONS (ENABLING PROVISIONS)

- 11 of 1981 **An Act to provide for the constitution of contributory funds under the name of the Parliamentary Pensions Premium Fund for the purpose of effecting and maintaining pensions and related benefits for Members of the National Assembly and their dependants; and further to provide for periodic contributions by such Members and the Government to such funds and for the appointment of trustees of such funds under the name and style of the Trustees of the Parliamentary Pensions Premium Fund; to provide for the incorporation of such Trustees as a body corporate; to provide for the terms and conditions of the trusts under which the aforementioned funds shall be held and administered by such Trustees, and for the powers, duties and obligations of such Trustees in respect thereof and in relation to the beneficiaries thereunder; and further to provide for matters incidental to or connected with the foregoing**

[1ST JANUARY, 1972]

## PART I

## PRELIMINARY

- Short title      1. This Act may be cited as the Parliamentary Pensions (Enabling Provisions) Act.
- Interpretation      2. In this Act unless the context otherwise requires—
- “Chairman” means the Chairman of the Trustees designated by section 6 (1) (2);
- “Fund” means the Parliamentary Pensions Premium Fund, established by section 3;
- “insurer” means any person doing business in Malaŵi, as a life insurer;
- “Member” means a member of the National Assembly;
- “Minister” includes the Speaker and Deputy Ministers;
- “Parliamentary Service” means service as a Member of Parliament for any determinate period;
- “reckonable service” means the aggregate of all Parliamentary Service;
- “scheme” means any pension formulated under this Act and includes any supplemental scheme;
- “Speaker” means the Speaker of the National Assembly;
- “Trustees” means the Trustees of the Parliamentary Pensions Premium Fund constituted by section 5.

## PART II

## ESTABLISHMENT OF FUND

3. There is hereby established a fund to be known as the Parliamentary Pensions Premium Fund, which shall vest in, and be held and administered by the Trustees upon and subject to the trusts, and for the advancement and furtherance of the objects in this Act hereinafter declared. Establishment of the Fund

4. The objects of the Fund are to provide moneys for effecting and maintaining such pension and related benefits schemes as the Trustees may, under this Act, from time to time, formulate on behalf of Members and insure with insurers for the benefit of such Members or their dependants. Objects of the Fund

## PART III

## THE TRUSTEES

5. There is hereby constituted the Trustees of the Parliamentary Pensions Premium Fund, which shall by that name be a body corporate with perpetual succession and a common seal, capable of suing and being sued and, subject to this Act, of doing such acts and performing such deeds as a body corporate may by law do or perform. Trustees of the Fund

6.—(1) The Trustees of the Parliamentary Pensions Premium Fund shall be— Appointment and removal of Trustees

(a) the Speaker, who shall be executive Trustee, and the Chairman of the Trustees;

(b) two other persons appointed by the President.

(2) In the event of the Speaker being unable to act as such Trustee, the President shall appoint, from among the Members, a Trustee to act as executive Trustee and Chairman in the place and stead of the Speaker during such inability.

(3) Any Trustee appointed under paragraph (b) of subsection (1), or under subsection (2), may, at any time, resign from such trusteeship, by giving to the President and to the Speaker one month's notice in writing of his intention to resign.

(4) The President may, at any time, by notice in writing, remove any Trustee appointed pursuant to paragraph (b) of subsection (1), or pursuant to subsection (2), and may appoint in the place and stead of such removed Trustee, a new Trustee, who shall exercise all of the functions and powers of the Trustee whom he has replaced.

(5) Where, under section 7, any Trustee becomes disqualified from continuing to act as such, the President shall appoint, in his place and stead, a new Trustee who shall exercise all of the functions and powers of the Trustee he has replaced.

Cap. 1:01 (6) The provisions of section 42 of the General Interpretation Act shall apply to the Trustees.

Disqualifica-  
tions 7. No person shall be appointed as a Trustee pursuant to paragraph (b) of subsection (1) of section 6, or to subsection (4) or (5) of the said section 6, or, having been so appointed, shall continue to act as such Trustee, who—

(a) is an undischarged bankrupt;

(b) has, within the past three years, been convicted of an offence involving fraud or dishonesty; or

(c) has been removed by a court from any office of trust by reason of misconduct.

Meetings of  
the Trustees 8.—(1) Subject to subsection (2), the Trustees shall meet at such places and times and as often as the Chairman, in his absolute discretion, deems meet.

(2) A special meeting of the Trustees shall be convened by the Chairman at the written request of a majority of such Trustees.

(3) The Chairman shall convene all meetings of the Trustees by notice in writing posted by ordinary post to each Trustee at least five days before the date of the meeting:

Provided that, if any question or problem arises in respect of the Fund, or of any scheme or insurance effected or to be effected thereunder, which, in the opinion of the Chairman requires the Trustees to meet without delay to consider such question or problem, the Chairman, may, upon giving not less than one hour's notice to the Trustees, convene such a meeting, and the provisions of this subsection shall not apply to the convening of such meeting or to the form or manner of notice thereof to be given to the Trustees.

(4) The Chairman shall preside at all meetings of the Trustees.

(5) The Chairman and one other Trustee shall constitute a quorum of the Trustees.

(6) The Trustees may determine their own procedure for any meeting of the Trustees.

(7) Matters of the policy relating to the Fund, or to any scheme, or to any insurance effected under any such scheme, shall be determined at meetings of the Trustees.

Powers of the  
Trustees 9. The Trustees shall have power to hold the Fund upon and subject to the trusts declared by or under this Act, or by or under any scheme formulated under this Act, and shall have power to enter into any transaction or to do any act, which, in their opinion will tend to the advancement of the objects of the Fund as declared by section 4 or which is incidental or contributory thereto, and without prejudice to the generality of the foregoing, shall have power to—

(a) formulate in conjunction with any insurer a scheme or schemes for the payment of pensions or other benefits to former Members and for the payment of pensions or other benefits to the surviving spouse, children or other dependants of deceased Members or former Members.

(b) insure such pension scheme or schemes with such insurer and to agree to and settle the terms of any master policy to be entered into with such insurer, insuring such pension scheme or schemes;

(c) increase, from time to time, by agreement with the relevant insurer, the amount *per annum* of any such pension benefits payable under any such scheme or the amount of any lump sum payment or other benefits payable thereunder and to provide from the Fund the amount of any additional insurance premium resultant upon any such increase;

(d) arrange, by agreement with the relevant insurer, for death and other benefits to be payable under any such scheme to the surviving spouse, children and other dependants of any deceased Member or deceased former Member who was a contributor to, or beneficiary under, the scheme at the date of his death;

(e) place any surplus moneys in the Fund on deposit account in any Bank until such moneys are required for the purposes of the Fund;

(f) otherwise manage and control the Fund to the best interests of the beneficiaries under the scheme or schemes by applying all the powers of investment prescribed by the Trustee Act. Cap. 5:02

10. The executive Trustee shall be the principal administrator of the Fund and of any scheme effected under this Act, and shall be responsible to the Trustees for the day-to-day running of the Fund and of any such scheme. Duties of the executive Trustee

#### PART IV

##### FINANCIAL PROVISIONS

11.—(1) Subject to the provisions of this section, there shall be deducted from each payment of salary made to any Minister or Parliamentary Secretary, or to any Member pursuant to the National Assembly (Emoluments) Act, being a payment made in respect of any period after the 1st day of January, 1972, a sum calculated at the rate of 5 per cent of such payment; and all sums so deducted shall be paid into the Fund. Contributions from Parliamentary remuneration Cap. 2:05

(2) If any salary from which a deduction is required to be made under this section is not drawn by the relevant Minister, Parliamentary Secretary or Member, as the case may be, there shall be set aside, out of such moneys as are available for the payment of such salary, a sum equal to the relevant deduction, and any sum



so set aside shall be paid into the Fund as if it were a sum deducted under subsection (1), in respect of such Minister, Parliamentary Secretary or Member.

(3) Any sums which, pursuant to any arrangement or agreement between the President, the Speaker and the Members, have been deducted from any Member's salary for pension purposes for any period before this Act comes into force, or set aside out of moneys available for the payment of any such salary, shall, in so far as and to the extent that they would have fallen to be deducted under this section if it had been enacted and in force at the material time, be treated as sums deducted or set aside under this section; and any sum, or any part thereof, so deducted or set aside, which would not in that event have fallen to be deducted or set aside under this section shall be refunded to the Member from whose salary it was deducted or set aside.

Government contributions

12. Subject to this Act, there shall be paid into the Fund out of moneys provided by Government in each financial year a Government contribution of an amount equal to twice the total of the sums payable into the Fund in that financial year by, or in respect of, the Ministers, Parliamentary Secretaries and Members under section 11.

Conditions of pensions

13. Any scheme formulated and agreed by the Trustees and the insurers under this Act shall make provision for the payment of a pension to or in respect of any Member, who, after the commencement of this Act, ceases to be a Member or dies, having completed his reckonable service on or before the date upon which he so ceased to be a Member or died.

## PART V

### SUPPLEMENTAL SCHEMES

Trustees to formulate supplemental schemes

14.—(1) The Trustees shall have power to formulate, in conjunction with any insurer, a Ministers' Supplemental Scheme and a Parliamentary Secretaries' Supplemental Scheme, Supplementary to any Members Pension Scheme formulated under this Act, each of which supplemental schemes shall provide for the payment of a pension supplement or other benefits to any former Member or to the surviving spouse, children or other dependants of any such former Member, who, during any period of his reckonable service, held office as a Minister or as a Parliamentary Secretary.

(2) Any pension supplement or other benefits payable to any former Member or to the surviving spouse, children or other dependants of any such former Member under any supplemental scheme formulated pursuant to subsection (1) shall be in addition and supplemental to any pension or other benefits payable to

such former Member or to the surviving spouse; children or other dependants of any such former Member under any Members Pension Schemes, and shall be calculated upon and payable in respect of, any period, or the aggregate of any periods, of reckonable service during which any former Member held office as a Minister or as a Parliamentary Secretary, as the case may be.

(3) No pension supplement or other benefit under any supplemental scheme formulated under subsection (1) shall be payable to any person unless or until such person is entitled to the payment of a pension or other benefit under the Members Pension Scheme to which such supplemental scheme is supplementary.

15. Where any supplemental scheme has been formulated under section 14, the amount available out of the contributions to the Fund effected under section 11 for the payment of premiums in respect of any Member to whom such supplemental scheme relates shall be applied as follows—

Contributions to supplemental scheme premiums

(a) a sum equal to the premium payable in respect of an ordinary Member shall be applied towards the premium payment of the Members Pension Scheme in respect of the Member to whom such supplemental scheme relates;

(b) the excess over and above (a) shall be applied towards the premium payment of the relevant supplemental scheme.

## PART VI.

### MISCELLANEOUS

16. Any trusts settled by or under this Act, or by, or in furtherance of, any scheme formulated under and in accordance with this Act, shall not be avoided or limited by any rule of law which prohibits or limits the settling of property in perpetuity, or the remote vesting of property, or which prohibits or limits accumulations, or restraints upon alienation.

Rules against perpetuities, etc., not applicable

