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# MALAWI

# CHAPTER 15: MALAWI

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## 15 MALAWI

### 15.1 Constitutional requirements for environmental protection in Malawi

The Constitution of Malawi (1994, as amended) recognises that responsible environmental management can make an important contribution towards achieving sustainable development, improved standards of living, and conservation of natural resources. The Constitution states that the environment of Malawi should be managed responsibly in order to:

- Prevent the degradation of the environment;
- Provide a healthy living and working environment for the people;
- Accord full recognition of the rights of future generations by means of environmental protection; and
- Conserve and enhance biological diversity.

The Constitutional mandate for sustainable development is elaborated upon in Malawi's Vision 2020, which presents the long-term development perspective as:

*“By the year 2020, Malawi, as a God-fearing nation, will be secure, democratically mature, environmentally sustainable, self-reliant with equal opportunities for and active participation by all, having social services, vibrant culture and religious values and a technologically driven middle-income economy.”<sup>1</sup>*

Embodied in Vision 2020 is the desire to achieve sustainable economic growth and development based on a multi-sectoral approach.

The Malawi Growth and Development Strategy III (2017-2022) is the overarching medium-term operational strategy for Malawi, designed to attain the nation's Vision 2020. The main thrust of the Strategy is to create wealth through sustainable economic growth and infrastructure development as a means of achieving poverty reduction. This is expected to transform the country from a predominantly importing and consuming economy to a predominantly manufacturing and exporting economy.

### 15.2 Institutional and administrative structure for EIA in Malawi

One of the factors which led to the development of a new Environment Management Act (EMA) in 2017 was the perception within the Environmental Affairs Department (EAD) that it would be taken more seriously by other organs of state and the private sector if it were reconstituted as a semi-autonomous body with a new and expanded mandate. Accordingly, the 2017 EMA makes provision for such a body known as the Malawi Environmental Protection Authority (MEPA). However, as the 2017 EMA has not yet come into effect, the agencies created under

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<sup>1</sup> National Economic Council, 2000. *Vision 2020 – The national long-term development perspective of Malawi: A summary*. Lilongwe: Hansa Reprint.

the 1996 EMA such as the Environmental Affairs Department (EAD) are still operational as described below.<sup>2</sup>

### 15.2.1 Environmental Affairs Department

As noted above, the Environmental Affairs Department (EAD) in the Ministry of Natural Resources, Energy and Mining (MNREM) is currently responsible for the administration, implementation and monitoring of environmental impact assessment (EIA). Figure 15.1 illustrates the decision-making structures, while the EIA process is described in more detail in section 15.4.

The EAD provides procedural and technical advice to developers, as required, on how best to comply with EIA requirements. It maintains a directory of local, regional and international consultants capable of carrying out EIA studies.<sup>3</sup> The EAD also maintains a register of all projects currently being appraised under the EIA requirements of the Environment Management Act (EMA), No. 23 of 1996.

While the EAD has statutory responsibility for ensuring compliance with EIA requirements, it relies substantially upon the expertise and advice of the interagency Technical Committee on the Environment (TCE) established under Article 16 of the EMA. The TCE has a rotating chairperson and the EAD provides secretariat support. Through the TCE, member agencies are informed about projects being appraised under the EIA requirements; participate in reviews of Project Briefs, EIA Terms of Reference (ToR) and EIA reports; develop terms and conditions for project approval; develop and monitor project auditing programmes; and recommend courses of action to the Director of the EAD (hereafter referred to as the Director). The Director acts on the advice of the TCE but is not bound by it.

### 15.2.2 Roles and responsibilities

EIA activities involve the participation of a number of agencies with varying responsibilities.<sup>4</sup> These agencies and their responsibilities are outlined below.

The **Environmental Affairs Department** is responsible for:

- Facilitating the EIA and strategic environmental assessment (SEA) processes;
- Ensuring compliance with EIA and SEA provisions in the EMA;
- Managing the production and updating of guidelines on impact assessment practice and procedures;
- Preparing sector-specific guidelines on EIA practice and procedures;
- Updating the list of prescribed projects;

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<sup>2</sup>Readers are therefore advised to check whether the EPA has been established.

<sup>3</sup>There is no basis in law for this list, nor are there any formal criteria for persons being placed on the list or being removed from it. This is an issue that needs to be addressed in the new EPA

<sup>4</sup>EAD (Environmental Affairs Department), 1997. *Guidelines for environmental impact assessment in Malawi*. Lilongwe: Ministry of Forestry, Fisheries and Environmental Affairs.

- Acting as the Secretariat to the TCE and the National Council for the Environment;
- Maintaining a register of projects being appraised under the EIA or SEA processes;
- Maintaining a central library of EIA and SEA reports; and
- Maintaining a directory of local, regional and international consultants capable of carrying out EIA and SEA studies.

The **Technical Committee on the Environment** is responsible for:

- Evaluating Project Briefs, ToRs for EIAs/SEAs, and EIA/SEA reports;
- Developing terms and conditions for project approval;
- Reviewing and monitoring project auditing programmes;
- Recommending courses of action to the Director; and
- Reporting to the National Council for the Environment.

The **National Council for the Environment** is responsible for:

- Advising the Minister on all matters affecting the protection and management of the environment and the conservation and sustainable utilisation of natural resources;
- Recommending measures for the integration of environmental considerations in all aspects of economic planning and development; and
- Recommending measures for the harmonisation of the activities, plans and policies of lead agencies and non-governmental organisations concerned with the protection and management of the environment and the conservation and sustainable utilisation of natural resources.

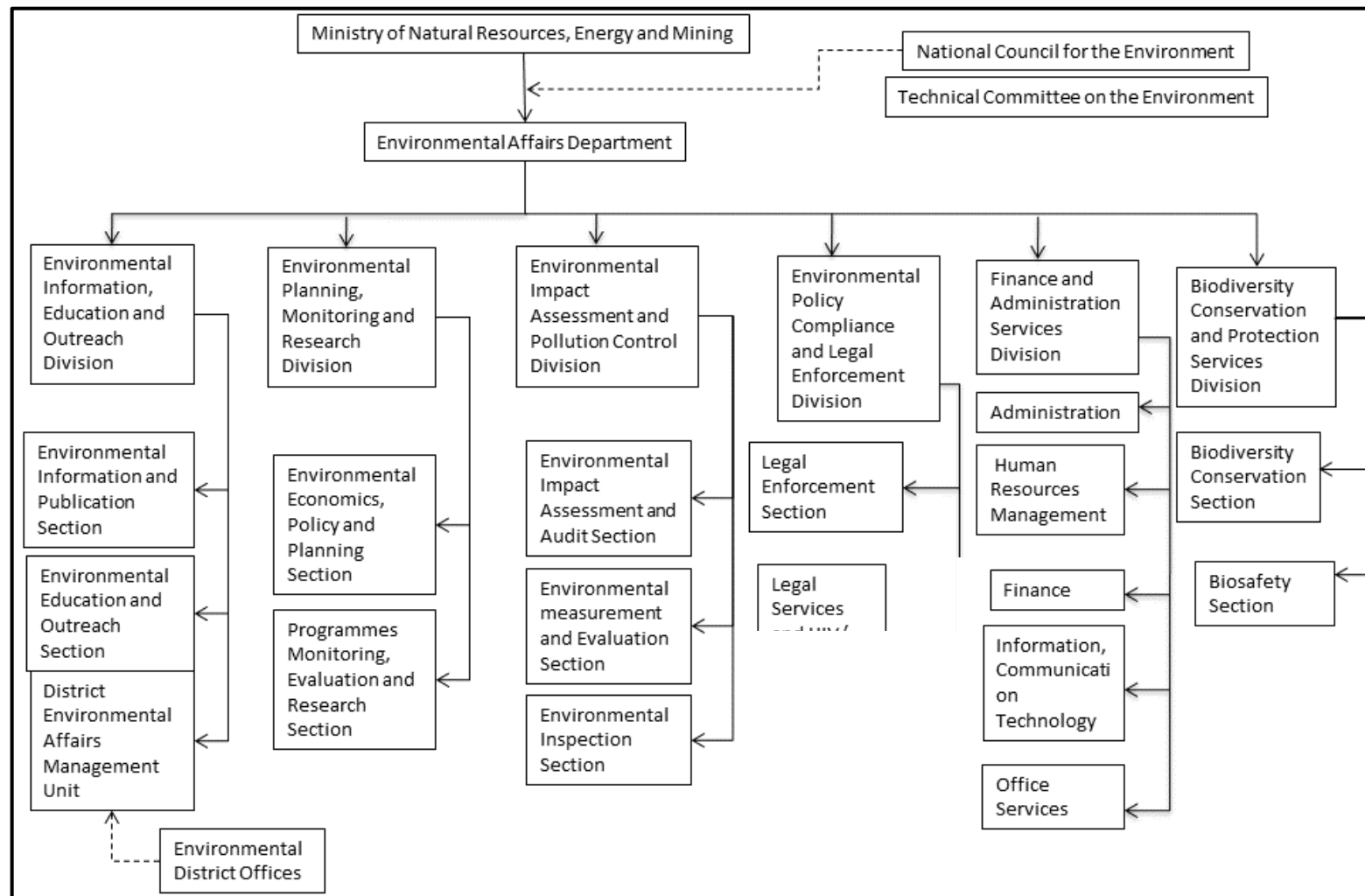


Figure 15.1: Environmental Affairs Department organogram

The **Ministry of Finance and Economic Planning** is responsible for:

- Determining if public sector projects are prescribed under the EMA and referring Project Submission Documents to the Director of Environmental Affairs;
- Participating in the TCE; and
- Working with the EAD and the TCE to develop and streamline their working relationship on EIA activities.

The **sectoral or line ministries** are responsible for:

- Ensuring that their own projects prescribed under the EMA adhere to the EIA and SEA requirements;
- Ensuring that private sector projects over which they have jurisdiction adhere to the EIA requirements;
- Participating in the TCE;
- Providing information and advice to project developers;
- Advising project developers on regulations and monitoring requirements related to licensing their projects;
- Incorporating EAD-approved terms and conditions into EIA Certificates; and
- Ensuring that the terms and conditions contained in the EIA Certificate are met, including those specified by the Director of Environmental Affairs.

### **15.2.3 Malawi Environmental Protection Authority**

When it comes into force, the 2017 EMA will provide the MEPA with a broad mandate and substantial powers including the power to investigate any violation or potential violation of the EMA or any other written law relating to environment and natural resources management, and take action to redress the violation. The MEPA will be empowered to coordinate, monitor and supervise all activities relating to the utilisation and management of the environment and natural resources. Significantly, the MEPA will be empowered to enforce the right to a clean and healthy environment and monitor and enforce compliance with policies and legislation related to the environment and natural resources by organs of state.

A significant inclusion in the 2017 EMA is the provision for the MEPA to recover the costs of reviewing EIA reports, as well as post-implementation monitoring. This is one of the ways the envisaged semi-autonomous body will fund its activities. The MEPA will advise the state on regional and international environmental conventions, treaties and agreements to which Malawi should be a party and follow up on the implementation of such agreements.

Once the 2017 EMA comes into effect<sup>5</sup>, the MEPA will take over the functions of the EAD, including the review and approval of EIAs and SEAs.

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<sup>5</sup> Expected to be mid-2020.



#### 15.2.4 Decentralisation of EIA administration

The Government of Malawi adopted a policy of decentralisation in 1998, which would have included the EIA administration process. To support this, Article 20 of the 1996 EMA provided for the appointment of an Environmental District Officer as a member of the District Development Committee. However, the decentralisation process has been slow to take effect and all EIA decision-making is still centralised at the EAD in Lilongwe.

#### 15.2.5 Inter-sectoral cooperation

The framework for inter-sectoral collaboration is well established in Malawi (see Table 15.1). Coordination is ensured through the secretariat services that the Director of Environmental Affairs provides to the National Council for the Environment which makes recommendations to the Minister through EAD.

**Table 15.1: Inter-sectoral collaboration**

Institution	Joint committees	Members	Frequency of meetings
Environmental Affairs Department	National Council for the Environment	Principal Secretaries, heads of selected parastatals	Quarterly
Environmental Affairs Department	Technical Committee on the Environment	Experts from different sectors appointed in their personal capacities, e.g. Malawi Bureau of Standards, University of Malawi, Forestry Department, Fisheries Department, National Herbarium and Botanical Gardens	8 times a year
Ministry of Agriculture Irrigation and Water Development	Water Resources Board	Cross-sectoral	6 times a year
Ministry of Agriculture Irrigation and Water Development	Pollution Control Committee	Cross-sectoral	6 times a year
Ministry of Agriculture Irrigation and Water Development	Kamuzu Barrage Control Committee	Cross-sectoral	Quarterly
Ministry of Agriculture Irrigation and Water Development	Water Abstraction Control Committee	Cross-sectoral	6 times a year
Mines Department	Mining Licensing Committee	Cross-sectoral	Monthly
Local authorities	Town Planning Committee	Cross-sectoral (appointed and ex officio members), e.g. the EAD, the Electricity Supply Commission of Malawi (ESCOM) and the Lilongwe Water Board	Monthly
Physical Planning	Town Planning Board	Cross-sectoral (appointed and ex officio members), e.g. the EAD, ESCOM, the Ministry of Agriculture, Irrigation and Water Development, the Ministry of Health, and the Ministry of Transport and Public Works	Biannually

In addition, all natural resource management policies and/or legislation relating to land, forestry, parks, wildlife, water resources and fisheries have clauses on the protection of the environment, natural resources and the promotion of sustainable development to a greater or lesser extent.

### **15.3 Policy and legal framework for EIA in Malawi**

#### **15.3.1 National Environmental Action Plan**

The government developed the National Environmental Action Plan in 1994 through broad public participation. It provides the framework for integrating environmental protection and management in all national development programmes with the view to achieving sustainable socio-economic development. The Action Plan is also used as a reference document to guide planners, developers and donors.<sup>6</sup> Its main objectives include the following:<sup>7</sup>

- Document and analyse all major environmental issues and identify measures to alleviate them;
- Promote the sustainable use of natural resources; and
- Develop an environmental protection and management plan.

#### **15.3.2 National Environmental Policy, 2004**

The National Environmental Policy of 1996 was revised in 2004 but the same policy goals largely apply. The overall policy goal is the promotion of sustainable social and economic development through the sound management of the environment and natural resources. The policy seeks to meet the following goals:

- Secure for all persons resident in Malawi, now and in the future, an environment suitable for their health and wellbeing;
- Promote sustainable utilisation and management of the country's natural resources and encourage, where appropriate, long-term self-sufficiency in food, fuel wood and other energy requirements;
- Facilitate the restoration, maintenance and enhancement of the ecosystems and ecological processes essential for the functioning of the biosphere and the prudent use of renewable resources;
- Enhance public awareness of the importance of sound environmental understanding of various environmental issues and participation in addressing them; and
- Promote cooperation with other governments and relevant international and regional organisations, local communities, non-governmental organisations and the private sector in the management and protection of the environment.

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<sup>6</sup> Spong, P-J & Walmsley, B, 2003. Country Chapter: Malawi. In: SAIEA (Southern African Institute for Environmental Assessment), *EIA in southern Africa*. Windhoek: SAIEA, pp. 101–7.

<sup>7</sup> Department of Research and Environmental Affairs, 1994. *National Environmental Action Plan*, Vol. 1. Lilongwe: Ministry of Research and Environmental Affairs.

Underpinning these broad policy goals are certain important principles that will guide policy development and implementation strategies:

- Every person has a right to a clean and healthy environment and a duty to safeguard and enhance the environment;
- A culture of conservation, protection and management of the environment should be inculcated into children as future custodians;
- Women should be closely involved in policy, programme and project design and implementation to enhance their role in natural resource use and management activities;
- The use of renewable natural resources should be sustainable for the benefit of the present and future generations;
- Malawi's economy is highly dependent on natural resources. If these are depleted or degraded, long-term food security and sustainable economic growth will be seriously affected;
- The participation of the private sector, non-governmental and community-based organisations is critical to the improved protection, conservation, management and sustainable utilisation of Malawi's natural resources;
- Community-based management and revenue sharing from the sustainable utilisation of natural resources on customary and public lands will be encouraged;
- Regulation will be complemented by social and economic incentives to influence the behaviour of individuals or organisations to invest in sustainable environmental management;
- Regular and accurate assessment, monitoring and dissemination of information on environmental conditions will be assured;
- Trade-offs between economic development and environmental degradation will be minimised through the use of EIA or SEA and natural resource monitoring; and
- Rational and secure tenure over land and resources is a fundamental requirement for sustainable natural resource management.

Some of Malawi's natural resources, such as Lake Malawi, national parks and forest reserves, are particularly affected by the activities of the country's neighbours and those of the region at large. This calls for concerted efforts in the preparation of policies and plans for their utilisation, management and conservation to ensure sustainable regional development.

### **15.3.3 National Climate Change Management Policy**

The National Climate Change Policy was published in 2016. Natural resources play a significant role in terms of affecting social and economic development at both the national and

local scale. According to the policy, approximately 80% of Malawians depend on natural resources for their livelihoods.

The policy goal is “*to promote climate change adaptation, mitigation, technology transfer and capacity building for sustainable livelihoods through green economy measures for Malawi*” The policy puts forward four objectives by which to achieve the aforementioned goal. These are as follows:

- Effectively manage the impacts of climate change through interventions that build and sustain the social and ecological resilience of all Malawians;
- Contribute towards the stabilisation of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous human-induced interference with the climate system within a timeframe that enables social, economic and environmental development to proceed in a sustainable manner;
- Integrate climate change into planning, development, coordination and monitoring of key relevant sectors in a gender sensitive manner; and
- Integrate cross-cutting issues into climate change management through an appropriate institutional framework.

#### **15.3.4 Environment Management Act**

The legal basis for EIA is contained in the Environment Management Act (EMA), No. 23 of 1996. The Act outlines the EIA process to be followed and provides the enabling legislation to develop EIA guidelines to ensure compliance with the EIA requirements. The Act makes EIA a statutory requirement, and a listed project cannot be licensed and implemented until a satisfactory EIA study has been completed and approved. The 1996 EMA will be repealed as soon as the 2017 EMA comes into effect, however, until this happens, the provisions of the 1996 EMA prevail.

In the EIA Guidelines (1997), the term ‘environment’ is defined as “*the physical factors of the surroundings of the human being including land, water, atmosphere, climate, sound, odour, taste and the biological factors of fauna and flora and includes the cultural, social and economic aspects of human activity, the natural and built environment*”.

EIA provisions in the EMA are found in Articles 24–27, 29 and 63, 69 and 76. These are summarised in s. 15.4.

The EMA (No. 19 of 2017) has been approved by parliament but has not yet commenced and as such the 1996 EMA remains in legal force. Once the 2017 EMA commences several significant changes will be set in motion as follows:

- It establishes the Malawi Environmental Protection Authority (MEPA);

- It provides every person the right to a clean and healthy environment, and imposes a duty upon people to safeguard and enhance the environment;
- It gives everyone a right to access environmental information and requires lead agencies, private sector and NGOs to provide such information in a timely manner; and
- It introduces Strategic Environmental Assessment as a legal requirement.

### 15.3.5 Regulations

Article 77 in Part XIII of the 1996 EMA makes provision for the Minister to make regulations pertaining to any aspect of environmental management. Any regulations made in terms of the 1996 EMA will be transferred to the 2017 EMA following due process once the latter has come into effect. New EIA regulations were in draft at the time of writing (July, 2019) and readers are requested to contact EAD for updates.

### 15.3.6 Permits and licences

The developer is required to obtain an **EIA Certificate** before s/he can commence operations. However, depending on the nature of the activity, s/he may require a number of other permits and licences, such as those shown in Table 15.2.

**Table 15.2: Other applicable permits and licences**

Act, Regulation or Bylaw	Permit or licence	Requirements	Implementing agency
Water Resources Act, No. 2 of 2013	Water Right	A permit is required to use and/or abstract water and/or build dams.	Water Resources Board: Water Abstraction Control Subcommittee
Water Resources (Water Pollution Control) Regulations, 1978	Effluent Discharge Consent	This aims to control water pollution. Effluent must conform to standards set by the Malawi Bureau of Standards.	Pollution Control Subcommittee
Environmental Management Act, No. 23 of 1996, Article 43	Effluent Discharge Licence	A licence is required to discharge any effluent	EAD
Environment Management Act, No. 23 of 1996, Article 42	Air Pollution Licence	A licence is required to emit any gas or other pollutants into the atmosphere.	EAD
Environment Management Act, No. 23 of 1996, Article 38	Waste Licence	A licence is required to handle, store, transport, classify or destroy waste other than domestic waste, or operate a waste disposal site.	EAD
Environment Management Act, No. 23 of 1996, Article 39	Hazardous Waste Licence	A permit is required to import or export and transport any hazardous waste in Malawi.	EAD
Fisheries Conservation and Management Act, CAP 66.05	Fish Farming Licence	A licence is required to operate a fish farm.	Fisheries Department
Physical Planning Act, No. 17 of 2016	Land Development Permit	A permit is required to develop land.	Local authority (if in a municipal area) or the

Act, Regulation or Bylaw	Permit or licence	Requirements	Implementing agency
			Commissioner of Physical Planning
Forestry Act, 1997 as amended in 2017	Use of Forest Resources Licence	Written consent is required for the domestic use of forest resources and land use within a forest reserve or protected forest area.	Director of Forestry, MNREM
Forestry Act, 1997 as amended in 2017	Forest Resources Import/Export Permit	A permit is required for the importation or export of certain types of forest product.	Director of Forestry, MNREM
Mining and Minerals Act, 2019	Reconnaissance, Exclusive Prospecting and Mining Licences	Requirements for these licences are set out in the 2019 Act.	Department of Mines, MNREM

### 15.3.7 Penalties

In terms of Article 63 of the EMA, any person who fails to prepare a Project Brief or an EIA report, or knowingly gives false information in either report, contrary to Article 25 of the Act, shall be guilty of an offence and be liable, upon conviction, to a fine of not less than K5,000 and not exceeding K200,000, and to imprisonment for two years.

According to Article 76 of the EMA, if the Director believes that the Act or any related regulations have been contravened, he/she may order the closure of such premises or operations. Recommencement of operations or the business may only occur once all mitigation measures identified by the Director have been satisfactorily implemented.

### 15.3.8 Fees

According to Article 29 of the EMA, the Minister may, by notice published in the Gazette, prescribe such fees as may be necessary for covering reasonable costs for scrutinising EIA reports and for the subsequent monitoring of a project approved for implementation under this Act. The review fees, as at 2017, were 30% of 1% of the total project costs, with a cap of US\$4,000.00.

### 15.3.9 Guidelines

Malawi has a comprehensive EIA Guidelines document, which was developed in 1997 to facilitate compliance with EIA requirements of the 1996 EMA by government agencies, project developers, consultants and donors. The reader is referred to these Guidelines<sup>8</sup> for detailed information on undertaking EIAs in Malawi until such time that new guidelines or regulations under the 2017 EMA are produced.

In 2002, the EAD commissioned a series of sector guidelines on EIA, environmental management systems and auditing for:

- Mining projects;
- Irrigation and drainage projects;

<sup>8</sup> <http://www.sdn.org.mw/enviro/eia/index.html>

- Sanitation projects; and
- Waste management projects.

Subsequently, draft EIA guidelines have been prepared for:

- Land developments, housing and human settlements;
- Tourism; and
- Water.

These provide comprehensive guidance (based on the 1996 EMA) for anyone wishing to develop a project in any of these sectors.

### 15.3.10 Environmental standards

Malawi has developed its own emissions standards. The standards developed to date by the Malawi Bureau of Standards (MBS) are shown in Table 15.3. Water quality guidelines are provided in Tables 15.4 and 15.5.

**Table 15.3: Environmental standards**

Standard number	Contents
13.020.10	Adoption of the ISO 14000 series on environmental management
MS 539:2002	Industrial effluents – tolerance limits for discharge into inland surface waters
MS 691:2005	Tolerance limits for domestic sewage effluents discharged into inland surface waters
MS 214:2005	Drinking water – specification
MS 733:2005	Borehole and well water quality standards
MS 173:2005	Noise pollution – tolerance limits
MS 326:2004	Incinerators – standard performance requirement for incineration plants for the destruction of hospital waste

**Table 15.4: Drinking water quality standards**

Parameter	Maximum allowable limit (mg/l except where shown) as per MS 214:2005
Conductivity	150 mS/m
pH	5.0 – 9.5 pH units
Turbidity	5 NTU
Calcium as Ca	150
Chloride as Cl	200
Residual Chlorine (at delivery point)	0.2 – 1.0
Fluoride as F	1.0
Magnesium as Mg	70
Nitrate and Nitrite as N	10
Potassium as K	50
Sodium as Na	50
Sulphate as SO <sub>4</sub>	400
Zinc as Zn	5
Aluminium as Al	0.3
Cadmium as Cd	0.005
Total Chrome as Cr	0.1
Copper as Cu	1.0
Iron as Fe	0.2
Lead as Pb	0.05
Manganese as Mn	0.1
Faecal coliforms	0 cfu/100 ml
Faecal enterococci	0 cfu/100 ml

**Table 15.5: Water quality for borehole and well water**

Parameter	Maximum allowable limit (mg/l except where shown) as per MS 733:2005
Conductivity	350 mS/m
pH	6.0 – 9.0 pH units
Turbidity	25 NTU
Calcium as Ca	250
Chloride as Cl	750
Fluoride as F	6.0
Magnesium as Mg	200
Nitrate and Nitrite as N	45
Potassium as K	-
Sodium as Na	500
Sulphate as SO <sub>4</sub>	800
Zinc as Zn	5
Aluminium as Al	0.3
Cadmium as Cd	0.005
Total Chrome as Cr	0.1
Copper as Cu	2.0
Iron as Fe	0.2
Lead as Pb	0.05
Manganese as Mn	0.1
Faecal coliforms	50 cfu/100 ml
Faecal enterococci	0 cfu/100 ml



According to MS 173:2005, daytime noise limits are restricted to 55 L<sub>Aeq</sub> (1h) dB(A) in or near residential, institutional or educational areas, and 77 L<sub>Aeq</sub> (1h) dB(A) in or near industrial and commercial zones.

In addition, the MBS has developed Codes of Practice for a range of environmental management and pollution control activities, including disposal of surplus pesticides and associated toxic waste, the design and management of solid waste disposal sites and the operation of effluent treatment plants.

Where Malawian standards do not yet exist, e.g. for air quality, the IFC/World Bank Environmental, Health and Safety Guidelines are used. Other national, international and industry-specific guidelines that can be used are those of the World Health Organisation, the European Union and the United States Environmental Protection Agency.

It is recommended that the developer consult with the MBS and other appropriate authorities or agencies to ensure that s/he follows the guidelines applicable to the project. All standards are available for purchase from the MBS.

#### **15.3.11 Certification of consultants**

At present, no formal structures exist for the certification and/or registration of consultants who wish to undertake EIAs in Malawi, although the EAD has a database of consultants. Indeed, the legislation requires neither the names of the EIA team responsible for preparing the EIA report to be disclosed, nor any prior approval of the consultants by the EAD. There are also no requirements for the consultants to be independent of the proponent.

### **15.4 EIA procedural framework in Malawi**

The EIA process involves several stages as outlined in the 1997 EIA Guideline document. As depicted in Figure 15.2, it begins with a determination by EAD whether a proposed project is prescribed under the EMA. If not, no further actions on EIA requirements need to be undertaken. If it is prescribed, then a Project Brief must be submitted to the Director. The stages of the current EIA process are described below.

#### **15.4.1 Screening**

Screening is a process of determining which projects should be subject to EIA requirements. The projects for which an EIA is mandatory are reflected in List A and those for which an EIA **may** be required are reflected in List B (see Appendix 15-1 for these lists).

#### **15.4.2 Scoping**

Scoping establishes the principal issues to be addressed in an EIA. A project team comprising the developer and a multidisciplinary team of experts performs the EIA. The composition of the team and the number of experts depend on the nature, location and scale of the proposed

project. In Malawi, public consultation is not a mandatory part of scoping, but it is generally recognised best practice to embark on the public consultation process during scoping, rather than to leave it to the EIA stage.

The main output of the scoping process is the Project Brief. This document informs the Director that a project is being considered and provides a preliminary assessment of the project impacts. The contents of a Project Brief are stipulated in Article 24(2) of the 1996 EMA and guidance on preparing Project Briefs is given in Appendix C of the EIA Guidelines. The Project Brief should contain the following information:

- The description of the project;
- The activities that shall be undertaken in the implementation of the project;
- The likely impact of those activities on the environment;
- The number of people to be employed for purposes of implementing the project;
- The segment or segments of the environment likely to be affected in the implementation of the project;
- Such other matters as the Director may in writing require from the developer or any other person who the Director reasonably believes has information relating to the project.

For public sector projects, the Project Brief corresponds to the *Project Submission Document* used by the Ministry of Economic Planning and Cooperation for internal pre-appraisal. The Project Submission Document is submitted to the Director of EAD at the completion of Stage 2 of the Ministry's project appraisal process.

When the Director receives a Project Brief, s/he refers it to the TCE for advice. Based on information in the Project Brief and established project screening criteria (see Appendix 15-2), the TCE assesses the need for an EIA and recommends a course of action to the Director.

The Director then determines whether more information is required, or, if sufficient information has been provided in the Project Brief, whether an EIA is required (Figure 15.2). If an EIA is required, the Director informs the developer and/or appropriate government authorities that an EIA must be undertaken and an EIA report prepared at the proponent's expense. The decision-making timeframe is 15 working days from the date the Director receives the Project Brief.

If an EIA is not required, the project is exempted from further compliance with the EIA requirements (see Figure 15.2). In such instances, the Director issues a Certificate of EIA Exemption, which advises the developer and relevant licensing authority of the exemption with, if appropriate, recommendations on the environmental management of the project.

### **15.4.3 Terms of Reference for EIA**

Before EIA Terms of Reference (ToR) are prepared and approved, the issues to be covered in the study and specified in the ToR will usually have been identified through scoping discussions between the Director of Environmental Affairs and the developer. Thus, scoping is vital to ensure that: all potentially significant impacts are included in the study, potentially insignificant concerns are excluded, and that resources are conserved and used wisely. The Director may on the advice of the TCE, require that a more formal scoping exercise be undertaken, perhaps involving consultations with the public, before the ToR are approved. Guidance on preparing ToR for EIA is given in Appendix E of the EIA Guidelines, and sample ToR for EIA are given in Appendix F. The timeframe for the Director to review each draft of the ToR is 10 working days.

### **15.4.4 Environmental impact assessment**

An EIA is a comprehensive assessment of the environmental impacts of a project and is based on the ToR prepared by the developer and approved by the Director. The EIA report must contain at least the information specified in Article 25 of the EMA:

- A detailed description of the project and the activities to be undertaken to implement the project;
- The description of the segment or segments of the environment likely to be affected by the project and the means for identifying, monitoring and assessing the environmental effects of the project;
- The description of the technology, method or process to be used in the implementation of the project and any available alternative technology, method or process, and reasons for not employing the alternative technology, method or process;
- The reasons for selecting the proposed site of the project as opposed to any other available alternative site;
- A detailed description of the likely impact the project may have on the environment and the direct, indirect, cumulative, short-term and long-term effects on the environment of the project;
- An identification and description of measures proposed for eliminating, reducing or mitigating any anticipated adverse effects of the project on the environment;

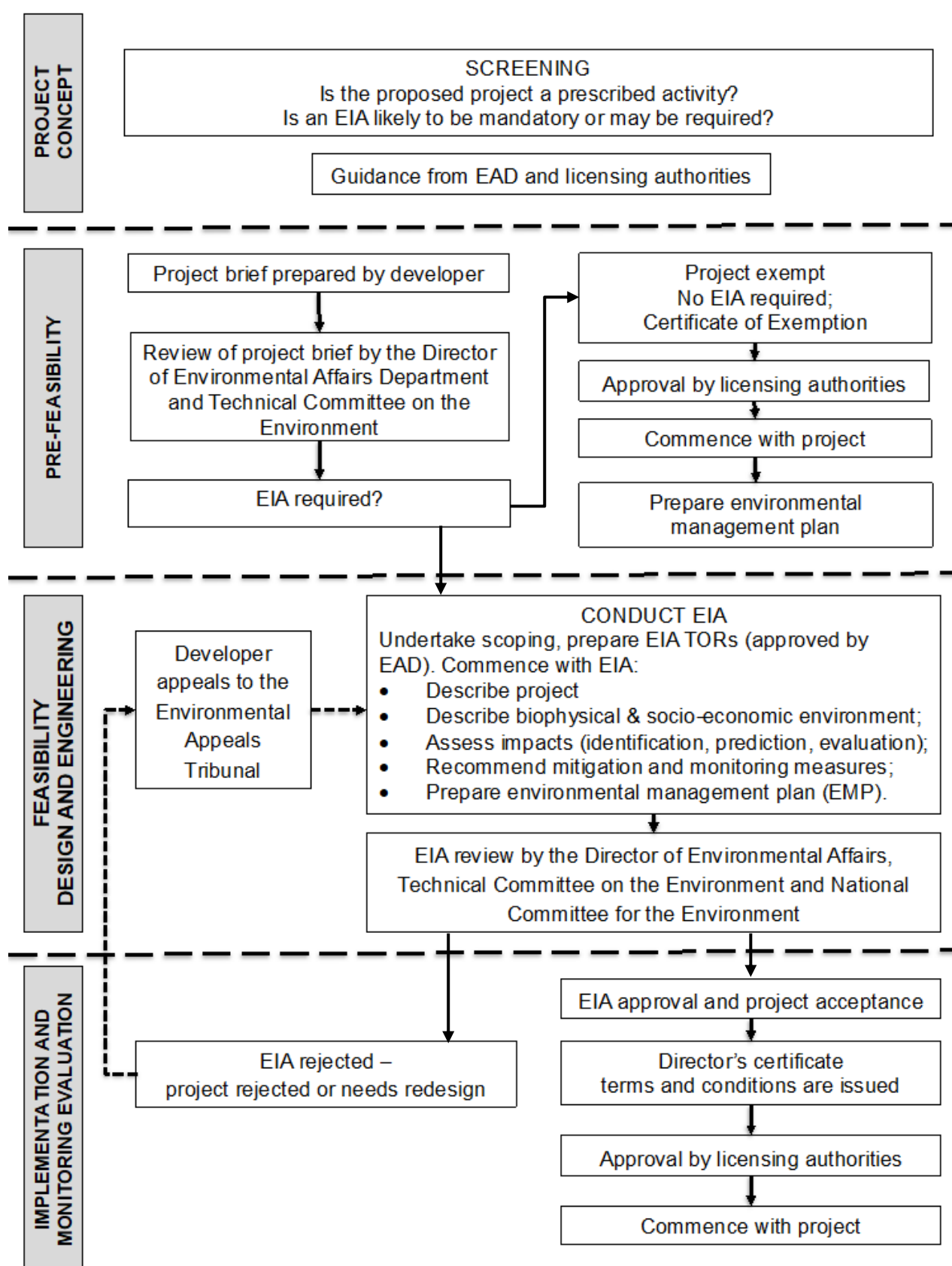


Figure 15.2: EIA process in Malawi

- An indication of whether the environment of any other country or of areas beyond the limits of national jurisdiction is or is likely to be affected by the project and the measures to be taken to minimize any damage to the environment;
- An outline of any gaps, deficiencies and the adverse environmental concerns arising from the environmental impact assessment and from the compilation of the environmental impact assessment report;
- A concise description of the method used by the developer to compile the information for the EIA.

Additional guidance on preparing EIA reports is provided in Appendix C of the EIA Guidelines. The EIA should be undertaken at the same time as the project feasibility studies (see Figure 15.2). For public sector projects, this will be during Stage 3 or 4 of the Ministry of Economic Planning and Cooperation's project appraisal process.

Public consultation is mandatory when undertaking an EIA. At a minimum, the proponent must meet with the principal stakeholders to inform them of the proposed activity and solicit their views on it. More problematic activities should involve more extensive consultations. The methods and results of these consultations must be documented in the EIA. Detailed guidance on public consultation is given in Appendix G of the EIA Guidelines. The main questions that need to be answered in the public consultation process and in the EIA report are shown in Table 15.6.

**Table 15.6: Key questions to be addressed in the EIA study**

Assessment stage	Key questions to be addressed
1. <i>Identification</i>	What will happen as a result of the project?
2. <i>Prediction</i>	What will be the extent of the change brought about by the project?
3. <i>Evaluation and interpretation</i>	Do the changes matter?
4. <i>Mitigation</i>	What can be done about the changes?
5. <i>Monitoring and management</i>	What are the monitoring and management plans?
6. <i>Reporting</i>	How can decision-makers be informed of what needs to be done, given the various alternatives?

#### 15.4.5 EIA review and decision-making

When the Director receives a draft EIA, s/he initiates a review and refers the EIA to the TCE. This review is led by EAD staff, with the assistance of members of the TCE who have an interest in the project or expertise needed for the review. Depending on the complexity and scope of the project, individual outside experts or an independent review panel may be retained to advise the EAD/TCE. Guidance on evaluating the adequacy of an EIA is given in Appendix H of the EIA Guidelines.

EAD staff and/or TCE members may meet with non-governmental stakeholders to verify or extend the proponent's public consultation programmes. The EIA is also made available for public comment. If considered necessary by the TCE, the Director may call for a public hearing on the EIA to solicit direct comments from people who may be affected. Such hearings are provided for under Article 26 of the EMA.

When the reviews are complete and consolidated, the Director meets with the developer and/or licensing authority to discuss the draft EIA and, if considered necessary by the TCE, require that corrections and/or additions be made before it is finalised. The TCE also reviews subsequent drafts of the EIA until a satisfactory report is produced.

The review of the first draft of the EIA report should be carried out within 50 working days of receipt of the document. The time required to review the second and any subsequent drafts is 25 working days. Based on the review and the advice of the TCE, the Director determines:

- That the project must be redesigned to eliminate or reduce adverse impacts and/or to enhance environmental benefits, and that the EIA report must be redone and resubmitted for the revised project; or
- That there is reasonable cause to believe that, even if it is redesigned or more detailed EIA studies are undertaken, the project will cause significant and irreparable impacts on the environment, and that the project is rejected; or
- That the project will not result in significant impacts on the environment and it is approved.

If the TCE approves the project, the developer is given an EIA Certificate, which may contain various terms and conditions of compliance. No project may receive a licence to proceed from any other licensing authority until the EIA Certificate has been issued (Art. 26(3) of the EMA).

#### **15.4.6 Managing compliance with EIA results**

To ensure that the project developer complies with the conditions contained in the EIA Certificate, the Director of Environmental Affairs requests the TCE to develop and implement a government audit programme, as per the requirements of Article 27 of the EMA. It must be emphasised that the EAD's primary role in project auditing is to facilitate the development and implementation of audit programmes, and not to take over the responsibilities of the licensing authorities. The EAD relies upon the normal regulatory functions of licensing authorities with jurisdiction over different aspects of project implementation to carry out the bulk of the auditing work in accordance with their statutory responsibilities.

In developing an audit programme, it is expected that the Department will employ practices and procedures to:

- Assign lead audit responsibilities to licensing authorities with primary responsibility for the regulation of projects;
- Organise technical and logistical support for audit programmes from among the TCE members;
- Prescribe schedules of reports from developers and lead agencies to the TCE;
- Monitor and report on project audits to the Director; and
- Where required, make recommendations to the Director for corrective action and/or penalties where developers are not complying with the environmental terms and conditions of project approvals.

The participation of lead agencies in the follow-up to the implementation of the EIA is important. For this reason, an environmental management and monitoring plan should form part of the EIA report to facilitate the monitoring and/or follow-up of the EIA process.

#### **15.4.7 Strategic environmental assessment**

Although strategic environmental assessments per se are not mentioned in the 1996 EMA or EIA Guidelines, the list of activities (List A of the EMA), includes ‘major policy reforms’ as one of the activities requiring an EIA. Although an EIA may not be the appropriate tool to assess policy reforms, the concept of a strategic environmental assessment was not in mainstream environmental practice when the Act was promulgated in 1996, and it is not surprising that such an assessment is not mentioned as a tool. This should not detract from the fact that some form of assessment is required for ‘major policy reforms’, as envisaged in the Act. However, SEA is explicitly required for policies, plans and programmes in Article 30 of the 2017 EMA. However, as stated earlier, the 2017 EMA has not yet commenced.

#### **15.4.8 Transboundary impacts**

Malawi shares a land border with Tanzania to the north, and Mozambique and Zambia to the west. The eastern border with Mozambique runs through the centre of Lake Malawi for most of its length. There are therefore numerous opportunities for trans-boundary impacts to occur. Thus, in Appendix A of the EIA Guidelines, one of the components to be included in the EIA report is an *“indication of whether the environment of any other country or of areas beyond the limits of national jurisdiction is, or are likely, to be affected by the project and the measures to be taken to minimise any damage to the environment [of that country]”*.

### **15.5 Other relevant environmental legislation in Malawi**

Environmental issues cut across a variety of sectors, and numerous pieces of legislation in Malawi have a bearing on the environment and should be considered in EIA decision-making.

The sectors, titles of the legislative instruments, the responsible agency and the purpose of the legislation are summarised in Table 15.7.

**Table 15.7: Other potentially applicable sectoral requirements**

Sector	Primary agency	Title and date of legislation	Purpose
Water resources (use of)	Ministry of Agriculture, Irrigation and Water Development: Water Resources Board	Water Resources Act, No. 2 of 2013	The Act provides for the management and conservation of water resources in Malawi. Inter alia, it guide water resources policy, planning and administration, water abstraction and use, control and protection of groundwater, designation of protected water catchment areas and controlled activities, and the prevention and control of pollution.
		Water Works Act, No. 17 of 1995	Provides for the establishment of Water Boards and the administration of such areas including the development, operations and maintenance of waterworks and water-borne sewerage systems.
		National Water Policy, 2005	The National Water Policy outlines strategies on how to tackle the many challenges and threats facing the water and sanitation sector in an integrated manner in order to effectively contribute towards achieving the National Development Agenda.
Effluent (disposal)	Ministry of Agriculture, Irrigation and Water Development: Pollution Control Subcommittee  Malawi Bureau of Standards <sup>9</sup>	Water Resources (Water Pollution Control) Regulations, CAP 72:03, 1978	The Regulations relate to the control of water pollution, the discharge of effluent into public water, and the analysis of water and effluent. Effluent discharge consents are issued in terms of the Regulations.
		Part VIII of EMA, Art. 42 relates to the prevention of pollution.	A licence is required from the Minister of MNREM to discharge effluent (Art. 43 of EMA).
		National Sanitation Policy, 2006	Key objectives of this Policy are: 1) To achieve universal access to improved sanitation; 2) Improved health and hygiene behaviour; and 3) The common acceptance and use of recycling of human waste to protect the environment and create wealth.
Air	Ministry of Natural Resources, Energy and Mining	Part VIII of EMA, Art. 42 relates to the prevention of pollution.	A licence is required from Minister to emit any gas or other pollutants (Art. 43 of EMA).
Waste	Ministry of Natural Resources, Energy and Mining	Article 37 of EMA	This gives power to the Minister to promulgate regulations regarding the control, management, transport, treatment, recycling and safe disposal of all waste, including hazardous waste.

<sup>9</sup>The Malawi Bureau of Standards has developed standards for water quality, effluent quality and noise, but in the absence of any specific standards, the World Bank/IFC and World Health Organisation standards should be used.



Sector	Primary agency	Title and date of legislation	Purpose
		Article 38 of EMA	A licence is required to handle, store, transport, classify or destroy waste other than domestic waste, or operate a waste disposal site.
		Article 39 of EMA	A permit is required to import or export and transport any hazardous waste in Malawi.
	Local authorities	Local Government Act, No. 42 of 1998, as amended in 2017	Each town is responsible for municipal waste disposal and to create its own bylaws regarding waste.
	Ministry of Health	Public Health Act, CAP 34:01 of 1948 and the Health Care Waste Policy.	Disposal of medical wastes and expired medicines.
Planning and zoning	Ministry of Development Planning and Cooperation  District Officers  Town and Country Planning Board	Physical Planning Act, No. 17 of 2016.	Replaces the Town and Country Planning Act of 1991. Makes provision for physical planning and the orderly and progressive development of land in both urban and rural areas to preserve and improve the amenities thereof. Permission is required to develop land and the use of such land. Provides for the establishment of the Physical Planning Council, the Physical Planners Board and the registration of physical planning professionals
		Part IV of EMA, Articles 19 and 23	District Environmental Action Plans are to be drawn up every five years, in conformance with the National Environmental Acton Plan. Development in each District must be in accordance with the District Environmental Acton Plan.
Forestry	Ministry of Natural Resources, Energy and Mining: Forestry Department	National Forest Policy, 2016	The goal of this policy is for the conservation, establishment, protection and management of trees and forests for the sustainable development of the country.
		Forestry Act, CAP 63.01 (1997) as amended by Act No. 5 of 2017	This Act, as amended, relates to the control and regulation of forest products; the declaration of forest reserves; the protection, control and management of forest products; tree planting and other enterprises. Art. 46 of the Forestry Act prohibits domestic use of forest resources within forest reserves and protected areas except with written consent.
		Forest Rules	The Rules contain regulations in forest areas on reforestation, felling, etc.
Mining and mineral resources	Ministry of Natural Resources, Energy and Mining: Mines Department	Mines and Minerals Act, 2019	The Act governs mining and quarrying licences, as well as the protection of the environment and natural resources.
		Explosives Act, CAP 14.09 (1966) and Regulations	The Act governs licences for the storage, possession and use of explosives, and the issuing of blasting licences.

Sector	Primary agency	Title and date of legislation	Purpose
		Petroleum (Exploration and Production) Act, CAP 61:02 of 1984 and Petroleum (Applications) Regulations, CAP 61.01 of 1984	The Act and its Regulations control the search for and production of petroleum, and provides for the protection of the environment, exploration and licensing.
Wildlife and natural resources	Ministry of Natural Resources, Energy and Mining: Department of National Parks and Wildlife	Wildlife Policy of 2000	Policy strives to ensure proper wildlife conservation and management to provide for sustainable utilization; equitable access to the resources; fair sharing of the benefits for present and future Malawians.
		National Parks and Wildlife Act, No. 11 of 2017	The Act consolidates the law in relation to national parks and wildlife management; establishes the Wildlife Advisory Board; contains new provisions relating to hunting licences, wildlife impact assessments, protected species and the illegal possession and trade in species.
		Game Act, CAP 66.03	The Act relates to the preservation and control of game in controlled areas and game reserves.
Plants	Ministry of Agriculture, Irrigation and Water Development	Plant Protection Act, No. 11 of 1969	The Act relates to the eradication of pests and diseases, and controls the export and import of plants.
		Noxious Weeds Act, CAP 64.02 (1936)	The Act relates to the eradication of noxious weeds.
		Council for National Herbarium and Botanic Gardens of Malawi Act, CAP 30:06 of 1987, as amended in 2012	The Act relates to the development and management of herbaria and botanic gardens.
Agriculture	Ministry of Agriculture, Irrigation and Water Development	Special Crops Act, CAP 65.01 (1971)	The Act controls the development and marketing of crops.
		Tobacco Act, CAP 65.02 (1970)	The Act relates to the production, manufacture and marketing of tobacco.
		Cotton Act, CAP 65.04 (1951)	The Act relates to the production, marketing and processing of cotton.
Land	Ministry of Lands, Housing and Urban Development  Ministry of Local Government and Rural Development	Land Act, 2016 Customary Land Act, 2016 Registered Land Act, CAP 58.01 of 1967, as amended by Act No 7 of 2017	These Acts relates to customary, public and private land, and the use of such land. They variously promote efficient, diversified and sustainable use of land resources both for agriculture and other uses to avoid sectoral land use conflicts and ensure sustainable socio-economic development.
		National Lands Policy (2002)	Policy promotes community participation and public awareness to ensure environmentally sustainable land use practices and good land stewardship; advocates for protection of sensitive areas and waste management.
		Lands Acquisition Act CAP 58.04 of 1971 and amended in 2016	This act provides power to acquire land, with adequate compensation and the procedures for acquisition of customary land and freehold land.

Sector	Primary agency	Title and date of legislation	Purpose
Fisheries	Ministry of Agriculture, Irrigation and Water Development	Fisheries Conservation and Management Act, CAP 66.05 (1997) and Regulations (2000)	The Act relates to the regulation and control of fishing, and prohibits the use of explosives and poison. Fish Farming Licences are issued in terms of this Act. Art. 3(7) of the Fisheries Conservation and Management Act does not recognize water officials as fisheries protection officers. Articles 20 and 21 of the Act are silent on EIA in granting of an aquaculture permit.
		National Fisheries and Aquaculture Policy (2016)	Promotes sustainable fisheries resource utilisation and aquaculture development in order to contribute to food and nutrition security and economic growth.
Industrial infrastructure and urban development	Ministry of Trade and Industry	Industrial Development Act, CAP 51.01 of 1966, as amended by Act No. 4 of 1988	The Act controls the orderly development of industry.
	Ministry of Lands Housing and Urban Development	Electricity Act, CAP 73.01 (2004) amended (2016)	The Act contains environmental provisions for the clearing of land and for transmission lines.
	Ministry of Transportation and Public Works	Public Roads Act, CAP 69.02 (1962)	The Act provides for matters relating to public roads, including maintenance and compensation.
	Ministry of Local Government and Rural Development Ministry of Lands, Housing and Urban Development		
Health	Ministry of Health	Public Health Act, CAP 34.01 (1948)	The Act relates to the prevention of infectious diseases, sanitation and housing, sewerage and drainage.
		National HIV/AIDS Policy, 2003	The goal of this policy is to prevent HIV infections, to reduce vulnerability to HIV, to improve the provision of treatment, care and support for people living with HIV/AIDS and to mitigate the socio-economic impact of HIV/AIDS on individuals, families, communities and the nation.
		National Health Policy, 2012	This policy paves the way for a revision to the 1948 Public Health Act and lays the foundations for transparent, robust policy-making and fostering policy coordination within the health sector.
Historic monuments	Ministry of Information, Tourism and Culture	Monuments and Relics Act, CAP 29.01 (1990)	The Act provides for the protection of places of distinctive natural beauty and historic sites, buildings, etc.
		Malawi Cultural Policy, 2014 Antiquities Policy, 2012	These Policies provide guidance to the Monuments & Relics Act (1990) for assessing Cultural Heritage impacts before embarking on large scale land altering development projects.
Labour employment	Ministry of Labour	Labour Relations Act, No 16 of 1996	The act promotes sound labour relations through the protection and promotion of

Sector	Primary agency	Title and date of legislation	Purpose
and occupational health			freedom of association, the encouragement of effective collective bargaining and the promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development.
		The Employment Act, No. 20 of 2000 as amended by the Malawi Employment Amendment Act, No. 27 of 2010	The act establishes, reinforces, and regulates minimum standards of employment with the purpose of ensuring equity necessary for enhancing industrial peace, accelerate economic growth and social justice and for matters connected therewith and incidental thereto.
		Occupational Safety, Health and Welfare Act, No. 21 of 1997	The act makes provision for the regulation of the conditions of employment in work places as regards the safety, health and welfare of persons employed therein; for the inspection of certain plant and machinery, and the prevention and regulation of accidents occurring to persons employed or to go into the workplaces; and to provide for matters connected with or incidental to the foregoing.
Gender	Ministry of Gender, Children, Disability and Social Welfare	Gender Equality Act, 2013  Gender Policy, 2008	The Gender Equality Act empowers the Malawi Human Rights Commission to: monitor and evaluate the state organs, state agencies and public bodies including the private sector to promote gender equality and make recommendations that the Commission deems necessary; carry out investigations and conduct searches in relation to any gender issues on receipt of complaint or on its own accord; and mainstream gender in the national development process in order to enhance participation of women and men, girls and boys for sustainable and equitable development.

**Appendix 15-1: List of prescribed projects****List A: List of projects for which an EIA is mandatory****A1 Agriculture/aquaculture projects**

1. Agricultural drainage projects of more than 1 ha;
2. Irrigation schemes designed to serve more than 10 ha;
3. Land development for the purposes of agriculture on greater than a 20 ha land holding;
4. Agricultural projects necessitating the resettlement of 20 or more families. Any change from one agricultural land use to another on greater than a 20 ha land holding;
5. Use of more than 1 ton of fertiliser per hectare per annum on greater than a 20 ha landholding, except for lime applications;
6. Use of the following concentrations of pesticides on greater than a 5 ha holding;
  - More than 5 l/ha of ultra-low-volume pesticides per application; or
  - More than 1 l/ha of aerial application of pesticides; or
  - More than 20 kg/ha for each application of granular pesticides.
7. Construction of fish-farming or ornamental pond(s) where the capacity is greater than 100 m<sup>3</sup> or where there is any direct discharge from a fishpond to a receiving water body; and
8. Any proposal to introduce fish species in an area where they do not presently exist.

**A2 Projects in the food and beverage production industry**

1. Construction of new abattoirs or slaughtering houses with a capacity of greater than 100 animals/day and expansions to existing abattoirs or slaughtering houses to a capacity of greater than 100 animals/day;
2. Construction of new canning and bottling operations with workspace of greater than 5000 m<sup>2</sup> or expansion to an existing canning or bottling operation to a workspace of greater than 5000 m<sup>2</sup>;
3. Construction of new breweries and distilleries with a production capacity of greater than 25 000 litres per day, or expansions to existing breweries or distilleries to a production capacity of greater than 25 000 litres per day;
4. Construction of new sugar production operations or expansions to existing sugar production operations by greater than 10%; and
5. Construction of or expansions to tea or coffee processing industries.

**A3 Water resources development**

1. Construction or expansion of groundwater utilisation projects, where the utilisation will be greater than 15 l/s or where the well is 60 m or deeper;
2. Construction of new water pipelines or canals longer than 1 km, or expansion to existing water pipelines or canals by longer than 1 km, where the cross-sectional area is greater than 20 m<sup>2</sup> and the volume of water to be carried will be greater than 50 m<sup>3</sup> per second;
3. Water pumping stations adjacent to lakes, rivers and reservoirs that withdraw more than 2 m<sup>3</sup> per second;

4. Drinking water supply schemes to serve a population of greater than 10 000 people, or expansions of existing schemes to serve such a population, or water reticulation networks with more than 10 km of pipeline;
5. Area of greater than 100 ha, or expansions of existing reservoirs by greater than 500,000 litres or greater than 100 ha; and
6. Construction or expansion of dams with a height of 4.5 m or higher.

#### **A4 Infrastructure projects**

1. Construction of new sanitary sewerage works, or expansion of existing sanitary sewerage works, to serve a population of more than 5000 people;
2. Construction of new storm sewerage works, or expansion of existing storm sewerage works, to drain an area of greater than 10 ha;
3. Any new sewerage outfall to a receiving water body or location of sewerage systems or septic tanks within 1 km of a water body;
4. Construction or expansion of septic tanks servicing more than 100 people or 20 homes or which receive more than 100 m<sup>3</sup> per day of wastewater;
5. Construction of new highways and feeder roads or expansion of existing highways and feeder roads;
6. Construction of new airport and airstrips or expansion of existing and airstrips and their ancillary facilities;
7. Construction of hospitals with a bed capacity of greater than 200 beds, or expansions of existing hospitals to a capacity of greater than 200 beds;
8. Construction of new or expansions to existing railway lines;
9. Construction of new or expansions to existing port or harbour facilities; and
10. Establishment or expansion of industrial estates.

#### **A5 Waste management projects**

1. Establishment or expansion of any of the following hazardous waste management facilities:
  - i. Incineration plant
  - ii. Off-site recovery plant
  - iii. Off-site waste disposal facility
  - iv. Off-site storage facility
  - v. Landfill site
2. Establishment or expansion of any of the following municipal solid waste management facilities serving a population of greater than 1000 people:
  - i. Landfill site
  - ii. Incineration facility
  - iii. Composting facility
  - iv. Recovery/recycling facility
  - v. Waste depots/transfer stations
3. Establishment or expansion of on-site waste treatment facilities.

#### **A6 Energy generation, transmission and storage projects**

1. Construction or expansion of electrical generating facilities designed to operate at greater than 4 MW or, in the case of hydroelectric generating facilities, where the total head is greater than 20 m or where there is a firm flow of 100 m<sup>3</sup> per second;
2. Construction of electrical transmission facilities operating at a voltage of 132 kV or greater;
3. Construction or expansion of oil and gas pipelines longer than 1 km;
4. Construction or expansion of storage facilities (excluding services station) for oil, gas, petrol or diesel, located within 3 km of commercial, industrial or residential areas and with a storage capacity of 500 000 litres or more; and
5. All activities associated with nuclear power development.

#### **A7 Industrial projects**

1. Construction of and expansions to industries involving the use, manufacturing, handling, storage, transport or disposal of hazardous or toxic chemicals, as regulated under the hazardous chemicals regulation under the EMA;
2. Construction of, or expansion to, any of the following industrial operations:
  - i. Tanneries
  - ii. Pulp and paper mills
  - iii. Lime plants
  - iv. Cement plants
  - v. All types of smelters
  - vi. Soap and detergent plants
  - vii. Fertiliser manufacturing operations
3. Construction of textile manufacturing operations (including carpet-making) which consume greater than 5000 m<sup>2</sup> of surface area, or expansions to existing textile manufacturing operations to a capacity of more than 5000 m<sup>2</sup>.

#### **A8 Mining and quarrying projects**

1. All mining of minerals, expansions to mines, mining exploration activity, minerals prospecting activity, quarries, gravel pits and removal of sand or gravel from shorelines, except for those activities that have received a project-specific exemption under subsection 26(3) of the EMA, signed by the Director for Environmental Affairs and co-signed by the Director of Mines;
2. Explosives manufacturing; and
3. Extraction of topsoil or the expansion of such an operation, when the operation or the expansion is greater than 0.5 ha or when the depth of a pit to burn bricks from the topsoil is deeper than 3 m.

#### **A9 Forestry projects**

1. Establishment or expansion of logging operations covering an area of greater than 50 ha;
2. Establishment of or expansions to existing logging operations on hillsides with a slope of greater than 10%, covering an area of greater than 10 ha, or any conversion of forested land with a slope of greater than 10% to another land use on greater than 10 ha;
3. Establishment of logging or conversion of forested land to another land use within the catchment area of reservoirs and
4. Establishment of forest plantations of greater than 50 ha.

**A10 Land development, housing and human settlement projects**

1. Establishment of or expansion to an existing housing development of a size greater than 5 ha or where more than 500 people are intended to be housed;
2. Resettlement programmes for 500 or more people or the creation of refugee camps intended to shelter 500 or more people;
3. Filling in water bodies for the purposes of land development, where the surface area of gross fill deposit is greater than 50 ha; and
4. Land reclamation projects greater than 100 ha.

**A11 Remedial flood and erosion control projects**

1. Construction of breakwaters, seawalls, jetties, dykes and groynes of greater than 2 m in height or 1 km in length to remedy shoreline erosion or flooding;
2. Construction of dams or weirs with a height of greater than 2 m, or which divert more than 20 m<sup>3</sup> per second, or any bypass channels or channel realignments to remedy riverine erosion or flooding; and
3. Shoreline stabilisation projects where the shoreline involved is greater than 50m.

**A12 Tourism development projects**

1. Construction of resort facilities and hotels with a capacity of more than 50 people, or expansions to existing facilities by a factor of greater than 50 people;
2. Construction of safari lodges and operations with a capacity of more than 50 people, or expansions to existing facilities by factor of greater than 50 people;
3. Construction of marine facilities with more than 10 boat slips, or expansion of existing marine facilities by more than 10 boat slips; and
4. Development of tourism master plans that have several projects associated with them.

**A13 Projects in proximity to or which have the potential to affect:**

1. Areas of unique historical, cultural, scientific or geographical significance or which have received some kind of World Heritage designation;
2. National parks, game reserves and protected areas;
3. Wetlands;
4. Water bodies;
5. Flood zones;
6. Major sources of drinking water, including communal wells;
7. Cemeteries or ancestral shrines; and
8. Residential, school and hospital areas, as designed in local planning documents.

**A14 Major policy reforms such as: deregistration of forestry reserves, changes to zoning plans and the proposed introduction of exotic species.**



**List B: List of projects for which an EIA may be required**

- Agriculture and aquaculture schemes;
- Drainage and irrigation projects;
- Forestry and logging schemes;
- Industrial projects;
- Infrastructure projects;
- Land development projects;
- Mining projects;
- Energy generation, transmission and use projects;
- Tourism projects;
- Waste treatment and disposal projects;
- Water supply projects;
- Health and population projects;
- Projects in areas protected under legislation;
- Projects in areas containing rare or endangered flora and fauna;
- Projects in areas containing unique or outstanding scenery; and
- Projects in tribal habitats.

## Appendix 15-2: Project screening criteria

- The project will not substantially use a natural resource in a way that pre-empts the use or potential use of that resource for any other purpose;
- Potential residual impacts on the environment are likely to be minor, of little significance and easily mitigated;
- The type of project, its environmental impacts and measures for managing them are well understood in Malawi;
- Reliable means exist for ensuring that impact management measures can and will be adequately planned and implemented;
- The project will not displace significant numbers of people, families or communities;
- The project is not located in, and will not affect, any environmentally sensitive areas, such as:
  - National parks
  - Wetlands
  - Productive agricultural land
  - Important archaeological, historical and cultural sites
  - Areas protected under legislation
  - Areas containing rare or endangered flora or fauna
  - Areas containing unique or outstanding scenery
  - Mountains or developments on or near steep hill-slopes
  - Dry tropical forests (e.g. *Brachystegia* woodlands)
  - Developments near Lake Malawi or its beaches
  - Developments providing important resources for vulnerable groups, such as fishing communities along the lake shore
  - Developments near high population concentrations or industrial activities where further development could create significant environmental problems, and
  - Prime groundwater recharge areas or areas of importance for surface run-off of water.
- The project will not result in:
  - Policy initiatives that may affect the environment, such as changes in agricultural pricing subsidies or tobacco liberalisation
  - Major changes in land tenure, and/or
  - Changes in water use through irrigation, drainage promotion or dams, changes in fishing practices.
- The project will not cause –
  - An adverse socio-economic impact
  - Land degradation
  - Water pollution
  - Air pollution
  - Damage to wildlife and habitat
  - An adverse impact on the climate and hydrological cycle
  - Air pollution, or
  - The creation of by-products, residual or waste materials that require handling and disposal in a manner that is not regulated by existing authorities.
- The project will not cause significant public concern because of potential environmental changes. The following are guiding principles:
  - Is the impact positive, mainly benign or harmful?
  - What is the scale of the impact in terms of area affected, numbers of people or wildlife?
  - What is the intensity of the impact?
  - What will be the duration of the impact?
  - Will there be cumulative effects from the impact?
  - Are the effects politically controversial?
  - Have the main economic, ecological and social costs been quantified?
  - Will the impact vary by social group or gender?

- Is there any international impact due to the proposed projects?
- The project will not necessitate further development activity that is likely to have a significant impact on the environment.

## Acronyms

<b>dB(A)</b>	Average decibels
<b>EAD</b>	Environmental Affairs Department
<b>EIA</b>	environmental impact assessment
<b>EMA</b>	Environment Management Act
<b>EMP</b>	Environmental management plan
<b>ESCOM</b>	Electricity Supply Commission of Malawi
<b>K</b>	Malawi Kwacha
<b>IFC</b>	International Finance Corporation
<b>ISO</b>	International Standards Organisation
<b>MBS</b>	Malawi Bureau of Standards
<b>MEPA</b>	Malawi Environmental Protection Authority
<b>MNREM</b>	Ministry of Natural Resources, Energy and Mining
<b>MS</b>	Malawi Standard
<b>NGO</b>	Non-governmental Organisation
<b>TCE</b>	Technical Committee on the Environment
<b>NTU</b>	Nephelometric Turbidity Units
<b>SEA</b>	strategic environmental assessment
<b>ToR</b>	terms of reference

## Useful contacts

Department	Ministry	Telephone	Fax	Website
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