

Malawi

National Youth Council of Malawi Act Chapter 31:04

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National Youth Council of Malawi Act
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Malawi

National Youth Council of Malawi Act

Chapter 31:04

Commenced on 19 January 1997

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

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to make provision for the promotion, co-ordination and implementation of youth development programmes in Malawi; the establishment of a National Youth Council of Malawi; and further to provide for matters incidental thereto or connected therewith

Part I – Preliminary

1. Short title

This Act may be cited as the National Youth Council of Malawi Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Chairman**” means the person appointed as Chairman of the Council under [section 8](#);

“**Council**” means the National Youth Council of Malawi established under [section 3](#);

“**Member**” means a member of the Council;

“**Executive Secretary**” means the person appointed Executive Secretary of the Council under [section 16](#).

Part II – The National Youth Council of Malawi

3. Establishment of the Council

There is hereby established a body to be known as the National Youth Council of Malawi (in this Act otherwise referred to as the “Council”) which shall be—

- (a) a body corporate with perpetual succession and a common seal;
- (b) in its corporate name, capable of suing and of being sued;
- (c) capable of holding, purchasing and otherwise acquiring and disposing of any property, movable or immovable, for the purposes, or in the course, of carrying out its functions; and
- (d) capable of doing and performing all such acts and things as bodies corporate may by law do and perform.

4. Composition of the Council

(1) The Council shall consist of—

- (a) the following members appointed by the Minister—
 - (i) seven persons representing registered youth organizations in Malawi

- (ii) a representative of the Episcopal Conference of Malawi;
 - (iii) a representative of the Christian Council of Malawi;
 - (iv) a representative of the Muslim Association of Malawi;
 - (v) a representative of Women's Organizations; and
 - (vi) three Councillors.
- (b) the following *ex officio* members—
- (i) the Secretary for Education or his representative;
 - (ii) the Secretary for Youth, Sports and Culture or his representative;
 - (iii) the Secretary for Health or his representative;
 - (iv) the Secretary for Women and Children Affairs and Community Development and Social Welfare or his representative;
 - (v) the Secretary for Labour and Manpower Development or his representative;
 - (vi) the Secretary for Local Government and Rural Development or his representative;
 - (vii) the Secretary for Justice or his representative; and
 - (viii) the Secretary for Home Affairs or his representative.
- (2) A representative of an *ex officio* member referred to in subsection (1) (b) shall be designated by, or on behalf of, the *ex officio* by a notice in writing to the Council to attend the meetings of the Council, and upon such designation such representative shall not attend to the business of the Council by representation.
- (3) A member of the Council appointed under subsection (1) (a) shall hold office for a period of two years unless his appointment is terminated sooner than the expiry of that period and shall be eligible for re-appointment.
- (4) A member of the Council appointed under subsection (1) (a) may resign his office upon giving one month's written notice to the Minister.
- (5) The names of all members of the Council as first constituted and every change in the membership of the Council shall be published in the *Gazette*.

5. Vacation of office of members

The office of a member, other than an *ex officio* member, shall become vacant—

- (a) upon his death;
- (b) if he has been absent from three consecutive meetings of the Council, of which he has had notice, without the permission of the Chairman;
- (c) if he has been convicted of an offence without the option of a fine and sentenced to imprisonment for a period exceeding six months;
- (d) if in the opinion of the Minister he becomes mentally or physically incapable of efficiently performing his duties as a member of the Council; and
- (e) if the Minister, upon the recommendation of the Council, so directs.

6. Filling of vacancies on the Council

- (1) On vacation of office by a member of the Council, the vacancy shall be filled by a person appointed in accordance with the relevant provisions of [section 4](#) (1) (a) under which the former member was appointed:

Provided that if the remaining period is less than six months the Minister may decide not to have the vacancy filled until the expiry of the period.

- (2) If any member of the Council is granted leave of absence by the Council, the Council may, if it sees fit co-opt a person who belongs to the same organization as the member who has been granted leave to fill the vacancy during the absence of that member.

7. Co-opted persons

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

8. Chairman and Vice-Chairman

- (1) The Minister shall, appoint a Chairman of the Council from amongst members appointed under [section 4](#) (1) (a).
- (2) Subject to subsection (3), the Chairman shall hold office for the duration of his membership on the Council.
- (3) The office of the Chairman shall become vacant—
 - (a) if the holder resigns his office by notice to the Minister;
 - (b) if the holder of the office ceases to be a member of the Council;
 - (c) if the Minister, upon the recommendation of the Council, so directs.
- (4) The Minister shall appoint a Vice-Chairman from amongst members of the Council who shall, subject to subsection (5), hold office for the duration of his membership on the Council.
- (5) The office of the Vice-Chairman shall become vacant—
 - (a) if the holder resigns his office by notice in writing to the Council;
 - (b) if the holder of the office ceases to be a member of the Council;
 - (c) if the Minister, upon the recommendation of the Council, so directs.
- (6) Whenever the Chairman is absent or is for any cause unable to discharge the functions of his office, the Vice-Chairman shall discharge the functions of the Chairman.

9. Remuneration of members of the Council

A member of the Council other than an *ex officio* member, shall be paid out of the funds of the Council, such remuneration and allowances, if any, as the Minister may determine.

10. Meetings of the Council

- (1) Subject to subsection (2), the Council shall hold ordinary meetings for the dispatch of business at least twice a year.
- (2) An extraordinary meeting of the Council—
 - (a) may be convened by the Chairman at any time;

- (b) shall be convened by the Chairman within twenty-one days of receipt by him of a request in writing signed by not less than five members of the Council and specifying the purpose for which the meeting is to be convened.
- (3) At any meeting of the Council—
 - (a) the Chairman or, in his absence, the Vice-Chairman, shall preside;
 - (b) in absence of both the Chairman and Vice-Chairman the members present and forming a quorum shall elect one of them to preside;
 - (c) the quorum shall be formed by eight members.
- (4) An *ex officio* member of the Council shall attend any meeting of the Council in person.
- (5) At any meeting of the Council a decision on any matter shall be that of the majority of the members present and voting at that meeting, and in the event of an equality of votes, the Chairman, Vice-Chairman or the person presiding shall have a casting vote in addition to his deliberative vote.
- (6) The Council shall have power to regulate its own procedure.
- (7) The Council shall cause minutes of every meeting of the Council or Committee to be kept.

11. Non-liability of members of the Council or of committees

No member of the Council or of any committee of the Council shall be liable for any act or default of his or of the Council, done in the exercise in good faith of the functions or powers of the Council.

Part III – Functions and powers of the Council

12. Functions of the Council

The functions of the Council shall be—

- (a) to develop, promote, encourage and control all forms of youth activities in Malawi on a national basis;
- (b) to facilitate and encourage co-operation among registered youth organizations in Malawi;
- (c) to initiate operation and management of non-profit making or profit making projects in support of youth development;
- (d) to organize and promote scholarships for youth workers, members of youth organizations and officials;
- (e) to foster the promotion of training courses;
- (f) to register youth organizations;
- (g) to advise Government and any authority either specifically or generally, on matters relating to sport and physical recreation; and
- (h) to develop and institute guidelines for co-operation, for the purposes of this Act, between the Government and other organizations and agencies operating in Malawi.

13. Powers of the Council

For the better performance of its functions, the Council shall, subject to the provisions of this Act, have power—

- (a) to employ professional technical and administrative personnel as it may deem requisite and lay down conditions of service for such employees;

- (b) to pay any person in its employ such salary, wages or other remuneration as it may deem fit, and to grant him such leave as it may deem fit;
- (c) to enter into any contract or agreement;
- (d) to purchase, take on lease or in exchange, hire or otherwise acquire any real or personal property, which it considers necessary in the furtherance of its objects;
- (e) subject to the Finance and Audit Act, to raise moneys by way of loans or overdrafts;
- (f) to invest or deal with, any of the moneys not immediately required in such securities and in such manner as it may think fit and to vary or realize such investments;
- (g) to manage, insure, let, sell, alienate, mortgage or otherwise deal with any property of the Council as it may deem necessary or expedient;
- (h) to receive donations or gifts of money or other property from any person or body of persons for the furtherance of its objects;
- (i) to receive such donations or gifts beneficially or as trustee of any trust established for the furtherance of such objects;
- (j) to publish, from time to time, such professional or other information as it deems necessary or expedient for the promotion of the objects of the Council; and
- (k) to do all such acts, matters and things as it deems necessary for fulfilling the functions of the Council.

[Cap. 37:01]

14. Committees of the Council

- (1) The Council may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of the functions of the Council as the Council may consider expedient.
- (2) The Chairman shall, by reason of his office, be a member of every committee established under subsection (1).
- (3) The Chairman of each committee shall be appointed by the Council from amongst the members of the Council.
- (4) Each committee may in its discretion invite any person, not being a member of the Council, to attend a meeting of the Committee and take part in the deliberations of the meeting but such person shall not be entitled to vote.
- (5) The chairman of a committee may, at any time and place, convene a meeting of the committee of which he is chairman.
- (6) The Chairman may, at any time, direct the chairman of any committee to convene a meeting of such committee and such chairman shall, as soon as is practicable, comply with such direction.
- (7) At all meetings of a committee the quorum shall be formed by a majority of members.
- (8) At all meetings of a committee each member present shall have one vote on a question before the committee and, in the event of an equality of votes, the chairman shall have, in addition to a deliberative vote, a casting vote.
- (9) Every committee shall have the power to regulate its own procedure.
- (10) Every committee shall keep minutes of its meetings and shall inform the Council of its activities and shall conduct its proceedings in such manner as the Council may direct.

- (11) A member of a committee who is not an officer in the public service shall, in respect of expenses incurred by him in travelling and subsistence while discharging his duties as member of that committee, be paid out of the funds of the Council such allowances as the Council may, with the approval of the Minister, determine.

15. Disclosure of interest

If a member of the Council has an interest, direct or indirect, in any matter before the Council and is present at a meeting of the Council at which the matter is under consideration, he shall as soon as practicable, disclose the fact and shall not take part in the consideration or discussion of or vote on any question with respect to the determination of the matter.

Part IV – Management of the Council

16. Appointment of an Executive Secretary

- (1) Subject to the provisions of this section, the Council—
- (a) shall appoint a person to be designated as the Executive Secretary of the Council upon such terms and conditions as the Council shall determine with the approval of the Minister;
 - (b) may appoint such other employees as it considers necessary or desirable in the discharge of its duties and upon such terms and conditions as it may determine.
- (2) The Executive Secretary, after consultation with the Chairman, may appoint temporary employees at such daily rates of pay, not below the minimum rates otherwise prescribed by law, as he may consider appropriate and shall, after he has appointed any such employee, report the fact thereof to the Council at its next meeting.
- (3) The Executive Secretary shall be the secretary to the Council and shall, on the instructions of the Chairman, convene meetings of the Council.
- (4) An officer of the Council duly appointed Executive Secretary shall be secretary to a committee of the Council and shall, on the instructions of the Chairman of the committee, convene meetings of the committee.

Part V – Financial provisions

17. Funds, accounts and audit

- (1) The funds of the Council shall consist of—
- (a) such sums as may be appropriated by Parliament for the purpose of the Council;
 - (b) any fees payable under this Act;
 - (c) such other moneys and assets as may vest in or accrue to the Council in the course of its functions;
 - (d) such moneys or other assets as may accrue to or vest in, the Council by way of grants, subsidies, bequests, donations, gifts, subscriptions, rents, interest or royalties from any other persons.
- (2) The Council shall keep proper accounts and other records relating thereto in respect of its funds and shall in every aspect comply with the provision of the Finance and Audit Act.

[Cap. 37:01]

- (3) The accounts of the Council shall be examined and audited annually by auditors appointed by the Council in the General Assembly and approved by the Minister.

18. Remuneration and expenses of members of the Council

A member of the Council or of a committee shall be paid from the funds of the Council such allowances as the Minister may prescribe and in prescribing the allowances, the Minister may make provision for the reimbursement of any reasonable expenses incurred by a member of the Council or of a committee in connexion with the business of the Council or the committee.

19. Investment of surplus sums

The Council may invest any sums which are not immediately required for its objectives in such manner as the Minister may approve.

20. Borrowing powers

Subject to the provisions of section 32 (1) of the Finance and Audit Act, the Council may, with the approval of the Minister, borrow either temporarily, by way of overdraft or otherwise, such sums as it may require, for meeting its obligations or discharging its functions under this Act.

[Cap. 37:01]

21. Financial year of the Council

The financial year of the Council shall be the period commencing on the date of commencement of this Act and ending on the following 31st March and thereafter it shall be a period of twelve months ending on 31st March every year.

Part VI – Registration of youth organizations

22. Register of youth organizations

- (1) The Executive Secretary shall keep and maintain in the prescribed form a register wherein shall be registered every youth organization in Malawi.
- (2) No youth organization shall operate in Malawi unless it is registered under this Act.

23. Application for registration

- (1) An application for registration of a youth organization shall be submitted to the Executive Secretary in such form as may be prescribed.
- (2) Every application for registration of a youth organization shall be accompanied by—
 - (a) a registration fee to be prescribed by the Minister;
 - (b) a copy of the constitution of the youth organization and, unless the constitution itself contains such particulars, a memorandum containing the following particulars—
 - (i) the objectives and functions of the youth organization;
 - (ii) the name and addresses of the office bearers of the youth organization; and
 - (iii) the place of operation.
- (3) On receipt of an application under subsection (1), the Executive Secretary may carry out such investigation or require such further information to be submitted to him as he considers necessary.

- (4) Upon registration, a youth organization shall be issued with a certificate of registration.

24. Grounds for refusing to register a youth organization

The Executive Secretary shall refuse to register an organization as a youth organization if he is satisfied that—

- (a) the name under which the organization wishes to be registered is identical or similar to the name of an existing youth organization;
- (b) the youth organization does not exist; and
- (c) the youth organization does not have the same objectives as those contained in the National Youth Policy Document.

25. Cancellation of registration

The Executive Secretary may at any time cancel the registration of any youth organization if he is satisfied that—

- (a) the constitution of such youth organization is in any respect repugnant to or inconsistent with the provisions of any law for the time being in force in Malawi;
- (b) the organization has ceased to exist in Malawi as a youth organization; or
- (c) the organization has changed its name and the new name it has adopted—
 - (i) is identical with that of any other existing youth organization;
 - (ii) so nearly resembles the name of another youth organization and that it is likely to deceive the public or the members of either youth organization; or
 - (iii) is repugnant to or inconsistent with the provisions of any law in force in Malawi.

26. Notification of grounds

Where an application for registration as a youth organization is refused or the registration of a youth organization is cancelled, the Executive Secretary shall make and furnish to the youth organization concerned a notice giving therein the reasons for such refusal or cancellation, as the case may be.

27. Appeal to the Minister

- (1) An appeal against a decision to cancel or to refuse the registration of a youth organization may be made to the Minister within thirty days of the receipt of the notice.
- (2) Where any appeal is made under subsection (1), the Minister may, to enable him determine the appeal, give such directions to the Executive Secretary as he may consider necessary.
- (3) After hearing an appeal made under subsection (1), the Minister may confirm, set aside or vary the decision of the Council.
- (4) Any person aggrieved with the decision of the Minister may apply to the High Court for a review of such decision.

Part VII – General Assembly

28. General Assembly

- (1) There shall be a General Assembly of the Council which shall be attended by the following—
 - (a) all members of the Council;

- (b) the Chairman, Secretary and Treasurer of each registered youth organization;
 - (c) three members from the youth wing of each registered political party;
 - (d) representatives of youth wings of religious organizations; and
 - (e) the Chief Youth Officer.
- (2) The General Assembly of the Council shall be held once in every year to transact the following business—
- (a) to receive and to adopt a statement of the Council accounts to the end of the preceding year;
 - (b) to appoint an auditor or auditors;
 - (c) to deal with any special matter which the Council desires to bring before it and any other matter or suggestion which the general membership may bring before it:
- Provided that no such suggestions shall be considered by the General Assembly unless two weeks prior notice in writing is served on the members before the meeting is held.
- (3) A notice convening the General Assembly shall be sent to members not less than fourteen days before the date of the meeting and the notice shall be accompanied with the agenda for the meeting.
- (4) At the General Assembly the quorum shall be formed by fifty per cent of the membership.
- (5) At the General Assembly voting shall be by show of hands and in the event of equality of votes the Chairman or other person presiding shall have a casting vote as well as a deliberative vote.

29. Extraordinary General Assembly

- (1) An Extraordinary General Assembly may be convened at any time by the Council and shall be convened within twenty-one days from the receipt of a requisition in writing signed by not less than one fifth of the members specifying objects of the meeting for any of the following purposes—
- (a) to deal with matters which the Council deems fit to place before the meeting;
 - (b) to receive a report on the activities of the Council;
 - (c) to deal with any special matters which the members requesting for the meeting may desire to place before the Council.
- (2) A notice convening the Extraordinary General Assembly shall be sent to members not less than fourteen days before the date of the meeting and the notice shall be accompanied with the agenda for the meeting.
- (3) At an Extraordinary General Assembly the quorum shall be formed by fifty per cent of the membership.
- (4) At the Extraordinary General Assembly voting shall be by show of hands and in the event of equality of votes the Chairman or other person presiding shall have a casting vote as well as a deliberative vote.

Part VIII – Miscellaneous provisions

30. Independence of youth organizations

Save as otherwise provided in this Act, the Council shall not interfere with the day-to-day administration or internal affairs of a youth organization or of any branch of such organization.

31. Appeals to the Minister

- (1) Any youth organization, branch of such organization or any person aggrieved by a decision of the Council, may, not later than thirty days from the receipt of such decision, appeal to the Minister.
- (2) Any youth organization, branch of a youth organization or person aggrieved by the decision of the Minister may apply to the High Court for a review of such decision.

32. Dissolution of youth organization

Subject to the constitution of a youth organization, where a youth organization is dissolved, the assets and liabilities of such organization shall be disposed of in accordance with directions given by the Minister:

Provided that the assets, if any, left over, after meeting all the liabilities of such organization shall not be utilized for any purpose other than for the purpose of other youth organizations as the Council may direct.

33. Regulation

The Minister may make regulations for the better carrying into effect of the provisions of this Act, and, in particular and without prejudice to the generality of the foregoing power, such regulations may provide for —

- (a) the fees, allowances or remuneration to be paid under this Act;
- (b) the books, registers and other records to be kept by a youth organization and for the inspection thereof;
- (c) the forms to be used for the purposes of this Act;
- (d) the process to be followed in—
 - (i) registering youth organizations; and
 - (ii) cancelling youth organizations from the register.