



Preparation of MEI Regulations and Commencement of the MEI Act, 2019

1. Introduction

Since 1972 the Engineering profession has been regulated by the Board of Engineers established under the Engineers Act, 1972. The 1972 Act provided for matters relating to the profession of engineering in Malawi and to the qualification, registration and control of the members thereof. The Board of Engineers has been the qualifying, registering and disciplinary authority of the engineering profession in Malawi. However, over the years the Engineers Act was in most material provisions, considered outdated and therefore, not consistent with developments in the profession of Engineering. It was noted that the only option available was to repeal the existing legislation and enact a new law in its place.

In March 2019, the Malawi Parliament passed the Malawi Engineering Institution (MEI) Bill which in May 2019 became the Malawi Engineering Institution Act, 2019. The MEI Act, 2019, repeals and replaces the Engineers Act, 1972 and provides a new legal framework that will be able to comprehensively deal with challenges and new developments in the engineering profession.

On the other hand, Malawi Institution of Engineers (MIE) was established by a Charitable Trust known as the Registered Trustees of the Malawi Institution of Engineers. The objectives of MIE included representation, advocacy, lobbying, protecting, etc. the interests of Engineers and of the general public in Malawi.

It is worth noting that the MEI Act, 2019 also merges the Board of Engineers and Malawi Institution of Engineers to establish the Malawi Engineering Institution which will be responsible for regulating the conduct and management of the engineering profession and all allied disciplines in Malawi. The merger of the two bodies will streamline membership into one body and facilitate continuous professional development. The MEI Act, 2019 is also expected to create synergies among training institutions in engineering, the industry and practicing engineers thereby enhancing Malawi's technological capacity through the incorporation of all emerging engineering disciplines. The MEI Act, 2019 will commence or become operational or become effective, on a date appointed by the responsible Minister. In order for the Minister to appoint the commencement date, regulations to operationise the Act needed to be drafted and vetted by the Ministry of Justice and Constitutional Affairs.

2. Background

In order to facilitate the drafting, enactment and commencement of a new legislation to regulate the engineering profession, the Board of Engineers found it necessary to form a working group to spearhead the process. Therefore, the Board of Engineers (BOE) through its Chairman, then the late Eng. Owen Kankhulungo, invited the Malawi Institution of Engineers (MIE) through its President, then Eng. David Mzandu, to form a Transition Committee (TC) to manage, facilitate and oversee the activities and processes leading to the enactment of a new Act of Parliament and



the birth of a new body to regulate the Engineering profession in Malawi. Prior to this BOE and MIE had already worked together for some time on various matters.

The MIE President took the matter of ‘the formation of the TC’ to the MIE Council and during a Council meeting on Friday 12th February 2016, as recorded under minute No. CM1/05/16 of the minutes of the meeting, the MIE Council agreed and appointed the then MIE President - Eng. David Mzandu, the Hon Secretary - Eng. Sam Kadangwe, and the Immediate Past President (IPP) - Eng. Andrew Thawe to represent MIE on the Transition Committee. Those present at the MIE Council meeting included the current MIE President - Eng. W.T. Chirwa, the current BOE Chairman - Eng. S. Namuthuwa, the current MIE Vice President - Eng. Dr G. Gamula, Eng. A.Thawe, Eng. P. Kulemeka, Mr. Pilirani Nyemba, etc. at the meeting it was resolved that decisions made by the TC would be binding on both the BOE and MIE which is still the case up to today.

The Board of Engineers was represented on the Transition Committee by the Chairman of the Board Eng. Owen Kankhulungo, the Registrar Eng. Stephen Jomo Mkandawire and a member of the Board Eng. Paul Kulemeka. The Chairman of the TC was then the late Eng. Owen Kankhulungo, he was appointed Chairman of the TC at a meeting of the TC held at David Consulting Engineers’ office in Lilongwe. The full membership of the TC therefore included Eng. Owen Kankhulungo (Chairman), Eng. Stephen Jomo Mkandawire, Eng. Paul Kulemeka, Eng. David Mzandu, Eng. Sam Kadangwe and Eng. Andrew Thawe.

With time lapse, because of change of leadership at BOE (upon the demise of Eng. Kankhulungo) and because of change of leadership at MIE, the composition of the TC subsequently changed. However, a new Chairman of the TC was not immediately appointed. The new TC membership included Eng. Simon Namuthuwa, Eng. Steven Jomo Mkandawire, Eng. Jacqueline Dias, Eng. Eng. Wilson Chirwa, Eng. Gerald Khonje and Eng. David Mzandu.

At a meeting held at Capital Hill on 11th October 2019, the TC agreed to include Eng. Sam Kadangwe and Eng. Andrew Thawe in the TC because of their profound institutional memory. At the same meeting after a duly seconded motion moved by Eng. Simon Namuthuwa, Eng. David Mzandu was appointed Chairman of the Transition Committee. The current TC is chaired by Eng. David Mzandu (Chairman) and members include Eng. Simon Namuthuwa, Eng. Jomo Mkandawire, Eng. Jacqueline Dias, Eng. Eng. Wilson Chirwa, Eng. Gerald Khonje, Eng. Sam Kadangwe and Eng. Andrew Thawe.

The TC derives its mandate as demonstrated above. Therefore any resolutions, decisions and agreements made are binding on both MIE and BOE.



3. The Process of Drafting Rules and Regulations

The TC appointed a Task Force (TF) comprising of Eng. Dr. Gregory Gamula (Chairman), Eng., Arthur Mandambwe, Eng. Paul Kulemekka, Eng. Peter Maere, Eng. Jacqueline Dias and Eng. Phideria Moyo to draft regulations.

Twice the TF presented the draft Regulations to the TC and on both occasions the TC provided its comments and input until it was felt that the draft regulations adequately covered the salient aspects for making the MEI Act, 2019 operational. However, when the draft Regulations were shared with Ministry of Justice staff (who worked with the TC in drafting the MEI Bill) at a meeting held at offices of David Consulting Engineers Ltd on 3rd April 2020, the MoJCA staff made some observations. It was observed that in some cases the Draft Regulations were just expounding on the provisions of the Act. It was also noted that the draft regulations were following the Act section by section and the TC was advised that drafting the regulations following the Act in that manner could be cumbersome and time consuming. However, what the Engineers had in mind in terms of what and how they wanted to regulate the Engineering profession, was clear from the draft regulations.

It was therefore recommended to abandon the Draft Regulations as drafted by the Engineers' Task Force and develop a simplified scheme of priority areas guided by the question – *what is it that we would fail to do if regulations were not in place?* To achieve this, specific topical areas were proposed and agreed upon.

4. Draft Regulations

It was agreed at the 3rd April TC meeting that a team from MoJCA would work with a team of Engineers to draft the regulations, however after further consultations it was agreed that the same MoJCA staff (who worked with the TC in drafting the MEI Bill) should prepare draft regulations and the TC should comment on the draft. The draft regulations were presented to the TC on 22nd June 2020 and during a meeting held on 26th June 2020 the MoJCA staff and the TC went through all the TC's comments one by one, incorporating changes as necessary. The regulations have among other things covered matters connected with and incidental to administration, registration, code of conduct and discipline.

The final draft Regulations will be submitted to the Ministry of Transport and Public Works (MoTPW). The Ministry will in turn submit the draft regulations to the MoJCA for vetting. When vetted, the Minister of Transport and Public Works will appoint a date of commencement of the Malawi Engineering Institution Act, 2019. The following attainments are expected to be achieved. The following milestones are expected to be achieved:

- On the date of effectiveness/commencement of the MEI Act, 2019, the BOE will cease to exist. Its mandate, duties and responsibilities will rest in the realm of the MEI.
- At the time of, and before the effectiveness of the MEI Act, the MIE Trustees will hold a meeting to make a resolution to dissolve the MIE Trust and transfer its assets and liabilities



to the MEI. The timing of MIE dissolution is planned to coincide with the commencement of the MEI Act, 2019.

- At commencement (coming into force) of the MEI Act, 2019, no matters will be dealt with by the BOE and MIE.
- The Engineering Conference and Annual General Meeting planned for October 2020, will be held under the banner of MEI.

5. Quality Control and Dissemination

The draft regulations will be presented at a stakeholder workshop to be convened by the MoTPW. The workshop is planned to be held in July 2020. The Ministry would consider further comments from the workshop and issue a final rule/gazette which would eventually be published.

6. The Engineering Conference and Annual general Meeting

The MEI will hold its first Engineering Conference and Annual General Meeting from 10th – 12th October 2020. The conference and AGM Organising Committee was appointed and preparations are underway. At the AGM the new engineering regulating body will elect its first leadership. Members of the engineering community are encouraged to study and familiarise themselves with the MEI Act (pdf is available on the MIE website).

7. Way Forward

At its meeting held at the School of Engineering – University of Malawi, the Polytechnic in Blantyre on 5th June 2020, the TC agreed to adopt and follow the following blue print leading to the Act becoming into force:

ID	Event/Description	Proposed Date	Action By
1	Meet the PS (TWP) for briefing	9 th June 2020	TC Chairman
2	Submit Draft MEI Regulations	19 th June 2020	TF
3	Comment on the Draft Regulations	26 th June 2020	TC Chairman
4	Incorporate comments and re-submit	3 rd July 2020	TF
5	Submission to MoTPW.	10 th July 2020	TC Chairman
6	Final Draft Regulations	20 th July 2020	TC Chairman
7	Submission MoJCA	24 th July 2020	PS (TPW)
8	Planned gazette and effective date of the MEI Act, 2019	31 st July 2020 latest 7 th August 2020	MoJCA