

Water sector accountability review: Malawi

***Water Resource Management
and Overarching Water Sector Governance***

ANNEX 1 and 2

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Annex 1. Water Resources Management de jure accountability evaluation table

1. Hydro-metric and water-quality monitoring

Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| Provided for | Provided for | Provided for | Provided for |
| <p>The Malawi Water Resources Act 2013 and National Water Policy 2005 outline the need for monitoring and information system on water resources.</p> <p>The Water Resources Act S18 provides for the National monitoring of, and information on, water resources management.</p> <p>The National Water Policy 2005: 4.2.9 provides for establishing of a sustainable groundwater-monitoring network and improving a surface water-monitoring network including developing water quality maps.</p> <p>National meteorological policy 2019 provides for:</p> <p>a) Direction in the development, strengthening and institutionalization of meteorological observation and prediction to enhance accuracy, reliability and utilization of meteorological information and services in the country.</p> <p>b) Promote proper management, access and utilization of meteorological data and information.</p> | <p>The Water Resources Act 2013 provides for the establishment of The National Water Resources Authority (NWRA). The Authority shall provide for a national monitoring and information system on water resources.</p> <p>(2) The system shall provide for__</p> <p>(a) the collection and management of data and information regarding water resources and their management; and</p> <p>(b) Procedures for gathering data and the analysis and dissemination of information on water resources.</p> <p>16._(1) The Authority shall provide for__</p> <p>(a) the collection, collation and analysis of data concerning the occurrence, flow, characteristics, quality and use of any water or waste;</p> <p>(b) the systematic gauging and recording of rainfall and of the volume, flow and quality of other water or waste;</p> <p>(c) the construction, operation and removal of gauging, recording and monitoring stations and investigation and monitoring boreholes; or</p> <p>(d) The sampling and analysis of any water or waste.</p> | <p>The National Water Policy 2005 outlines a plan on how to monitor and evaluate the performance of the policy's implementation plan to assess whether or not the objectives and outputs are being realized.</p> <p>National meteorological policy consists of a Monitoring and Evaluation plan to monitor progress against the implementation of this policy</p> <p>National Water Policy 2005 monitoring and evaluation provides for conducting participatory consultative meetings with the relevant stakeholders to assess the impact of the water policy plan.</p> <p>National meteorological policy provides for monitoring and evaluation of the policy implementation plan, the responsibility does not indicate other stakeholders' participation</p> | <p>The Water Resources Regulations 2018 allows for reporting and complaints procedure relating to hydro-metric and water quality monitoring.</p> <p>The Water Resources Regulations 2018 provides for</p> <p>Orders</p> <p>6.— (1) The Authority may issue an order on any person to desist from any activity, or for the carrying out of corrective measures to improve compliance to these Regulations or conditions for better water resource quality and or catchment conditions.</p> <p>(9) Where the Authority determines that an activity may cause deterioration of the water resource quality, the provisions of section 103 of the Act regarding adoption of corrective measures shall apply.</p> |

The Malawi Water Resources Regulation 2018 provides for a detailed guidance, procedure and technical specification on hydro-metric and water quality monitoring data collection, analysis, reporting, management, description of qualification for relevant staff, outline of offences that could possibly hinder hydrometric and water quality monitoring and attached fines.

In addition the Malawi Standards - MS214:2013 and MS733:2005 among others and the industry and sewage effluent standards as MS539:2013 and MS691:2005, provide for standards that provide detailed guidance and technical specification which are aligned with international standards set by organisations such as WHO. These include standards outline of the following:, procedures for observations, sampling, data collection and means of analysis.

The Malawi Water Resources Act describes what a hydrological station must consist of.

However, the NWRA is not fully operational. The National Water Policy 2005 provides that the Ministry responsible for water have the following roles:

1. The Water Quality Services Division of the Department of Water Resources spearheads water quality and pollution monitoring in the country. However, several Organisations conduct water quality and pollution monitoring in the country other than the Ministry responsible for Water Affairs. These include Malawi Bureau of Standards (MBS), Water Utilities (Water Boards), Teaching/learning Institutions, City Councils and Research Institutions.
2. National meteorological policy provides for the Department of Climate Change and Meteorological Services (DCCMS) as the lead on the following:
 - a) Monitoring and prediction of weather and climate
 - b) Management of meteorological data and information
3. The Surface Water Division of the Department of Water Resources manages hydrological observation of water level and discharge.
4. The Groundwater Division of the Department of Water Resources manages groundwater monitoring.

With the exception of DCCMS, both water quality services, ground and surface water divisions are under the Department of Water within the Ministry responsible for Water Affairs.

The Water Resources Act provides for the NWRA to monitor, and from time to time reassess, the National Water Policy and the National Water Resources Master Plan. Sec 13 of the Water resources Act provides for the establishment of Regional Offices to support the authority in executing its functions at defined catchment levels

In addition the Authority is to prepare, review and keep up to date, a comprehensive plan for the investigation, use, control, protection, conservation, management and administration of water resources for the nation.

The Water Resources Regulations 2018 provides for how performance of this function will be monitored, evaluated, disclosed and reviewed through:

1. Hydrological Assessment Report
2. Hydrogeological Assessment Report

protection of Integrity of the water resources monitoring network.

7.— (1) Any person who undertakes any activity that damages or hinders the proper functioning of the water resource monitoring network shall meet the cost of repair, within a period determined by the Authority. (2) Any person who undertakes any activity that damages or hinders the proper functioning of water resource monitoring network and who fails to make good the damage or cover the costs of repair, commits an offence and shall be penalized as stipulated in the Twenty Third Schedule.

Monitoring data

78. The Authority may, from time to time and in carrying out its responsibilities towards groundwater resources management, require any person or entity, permit holder or operator, to provide it with abstraction, water levels, water quality or any other specified information within a reasonable time or on a regular basis.

Water quality monitoring

100.— (1) The Authority shall inspect and sample any sources of water pollution. (2) The Authority shall not be required to give prior notice when inspecting and sampling any services of pollution under subregulation (1) (3) Any person, who obstructs, constrains or prevents an inspector who has sufficiently identified himself from undertaking a pollution

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| | In addition, by acknowledging the linkages the National Water Policy 2005 provides the following roles: <ol style="list-style-type: none"> 1. Role of DCCMS under the Ministry is responsible to provide relevant meteorological data for development and management of water resources. 2. Role of water utilities to monitor water quality within the water supply systems and promote catchment management and pollution control; | | control inspection commits an offence and shall, upon conviction, be liable to the penalty as specified in the Twenty Third Schedule. |
| Water Resources Act 2013. S18. Page 20 National Water Policy 2005 Page 9 National Meteorological Policy 2019 Water Resources Regulation 2018 | Water Resources Act 2013. National Meteorological Policy 2019 | Water Resources Act 2013. National Water Policy 2005 National Meteorological Policy 2019 Water Resources Regulation 2018 | |

2. Modelling and assessment of future demand scenarios

Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| Provided for | Provided for | weak | Absent |
| The Water Resources Act 2013 provides for assessment of future water demands and proposes options for meeting forecasted demand for each catchment area. The Act provides for development of the National Water Resources Master Plan. The National Water Resources Master Plan shall, among other things, address matters relating to- a) a water balance for each catchment area that compares forecasted water demand with data and information regarding water availability; b) proposed options for meeting forecasted demand for each catchment area in | The Water Resources Act 2013 provides for the establishment of the NWRA which would among other functions be responsible for NWRMP (and the necessary coordination of all relevant stakeholders) with an aim to: (a) prepare, review and keep up to date, a comprehensive plan for the investigation, use, control, protection, conservation, management and administration of water resources for the nation; and (b) recommend any revision of it. | The Water Resources Act provides for the NWRA to ensure implementation of the National Water Resources Master Plan. The Authority is required to submit the plan to the Minister responsible for Water Affairs who submits it to the Cabinet for approval. There is no provision in the legislation or policy for monitoring and reviewing performance against responsibilities for this function. | There is no provision in the legislation or policy for taking corrective measures, provision of incentives or imposition of sanctions for non-fulfilment or poor performance of these duties. |

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| <p>which forecasted water demands exceeds available supply, which options may include-</p> <ul style="list-style-type: none"> i. Water demand management programmes; ii. Necessary infrastructure construction; iii. Any other measure, including appropriate legal reforms considered necessary in achieving the objectives of the National Water Resources Master Plan. <p>The NWRMP 2017 presents an insight on the Natural Water Balance in Malawi. This provides information and modelling on current water resources and water demands and projections on future water resources and demands by 2035. (Annex 4 NWRMP, 2017)</p> | | | |
| <p>Water Resources Act 2013. National Water Resources Master Plan 2017</p> | <p>Water Resources Act 2013.</p> | | |

3. Setting ambient environmental standards, targets and objectives

3.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>The Water Resources Act 2013 provides for the reservation of a water resource under Part V. Water Abstraction and Use.</p> <p>“reserve”, in relation to a water resource, means that quantity and quality of water required__</p> <p>(a) to satisfy basic human needs for all people who are or may be supplied from the water resource; and</p> | <p>According to the Water Resources Act 2013, the responsibility is assigned to the Minister responsible for Water Affairs, who consults with district councils and NWRA.</p> <p>However, there is no outline on coordinating with the Malawi Environmental Protection Authority which has similar function as per the Environmental Management Act 2017 .</p> | <p>The National Water Policy (2005) outlines a plan on how to monitor and evaluate the performance of the implementation plan of the policy with the view of assessing whether the objectives and outputs are being realized.</p> <p>p42_MoIWD has the responsibility to monitor and evaluate the performance of the implementation plan of the</p> | <p>The Water Resources Regulations 2018 allows for reporting and complaints procedure relating to any violations of any water reserve.</p> <p>S142. — (1) The Authority shall make the reserve information on water resources accessible to the public.</p> <p>(2) Any person may make written report or complaint to any office of</p> |

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| <p>(b) to protect aquatic ecosystems to secure ecologically sustainable development and use of the water resource;</p> <p>“Resource quality”, in relation to a water resource, means the quality of all the aspects of a water resource including__</p> <p>(a) the water quality stipulated for the reserve;</p> <p>(b) the quantity, pattern, timing, water level and assurance of in-stream flow;</p> <p>(c) the physical, chemical and biological characteristics of the water;</p> <p>(d) the charter and condition of the in-stream and riparian habitat; and</p> <p>(e) the characteristics, condition and distribution of the aquatic biota;</p> <p>S 37.__(1) The Minister, in consultation with the district councils concerned may, by notice published in the Gazette, reserve part or all of the flow of a watercourse, including any ground water resource and the water stored in a public reservoir to__</p> <p>(a) meet the domestic use of the water users concerned; or</p> <p>(b) Reasonably protect aquatic and wetland ecosystems, including their biological diversity, and to maintain essential ecosystem functions.</p> <p>(2) Any water resource reserved under subsection (1) shall be taken into account in__</p> | | <p>policy with the view of assessing whether the objectives and outputs are being realized. It is to achieve this through:</p> <p>1.1 Developing procedures for monitoring and evaluation of the policy implementation;</p> <p>1.2 Undertaking periodic reviews of the specific programmes of the policy implementation;</p> <p>1.3 Conducting participatory consultative meetings with the relevant stakeholders to assess the impact of the programme</p> | <p>the Authority within the relevant catchment area or to the Executive Director if—</p> <p>(a) he is unable to obtain sufficient water from the water resource for basic human needs as a result of the reserve being violated; and</p> <p>(b) from his observations, he considers that the ecology is threatened as a result of the reserve being violated.</p> <p>(3) Each complaint or report registered with the Authority in regard to a violation of the reserve quantity or quality shall be given a Complaint Number by the Authority which shall be used for purposes of monitoring the response to the complaint or report.</p> <p>(4) Where a complaint or report has been registered with the Authority in regard to a violation of the reserve quantity or quality, the Authority shall take measures within forty-eight hours to respond to the complaint or report.</p> <p>(5) Measures that the Authority may take include but are not limited to activities listed in the Sixteenth Schedule.</p> <p>(6) Within thirty days after each report of a reserve violation, the Authority shall prepare a report</p> |
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| <p>(a) the licensing of water abstractions under section 39; and</p> <p>(b) the issuing of a permit for effluent discharge under section 92.</p> <p>(3) The Minister may allow the use of a reserved water resource if such use is compatible with the purposes of the reserve.</p> <p>(4) The Minister, the Authority and all public bodies shall, when exercising any power or performing any function in relation to the water resource concerned, take into account and give effect to the requirements of the reserved water resource.</p> <p>The water Resource Regulations 2018 outlines water reserve composition.</p> <p>S 140. The reserve in all instances shall comprise one element related to the quantity of the water resource and the respective probability associated with that quantity and a second element related to the quality of the water resource.</p> <p>S141. — (1) Where information is available from the water resource records and on reserve water demand, the Authority shall establish the reserve and shall be guided by the estimates of the quantity of water required to satisfy the reserve water demand.</p> <p>(2) Where water resource records are not available or where there are significant ambiguities, the Authority shall establish the reserve and shall be guided by—</p> | | | <p>detailing the nature of the reserve violation and the measures taken to restore the reserve.</p> <p>(7) Where the Authority considers that the reserve quantity and or quality is threatened, it shall cause to be placed in or near the water resource or in a public place frequented by the water users of a particular resource a legible signboard displaying the current condition of the resource and action required by the water users to safeguard the Reserve.</p> <p>However there are no clear sanctions and incentives for this criteria</p> |
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| <p>(a) ecological vulnerability;</p> <p>(b) vulnerability of population dependant on that water resource;</p> <p>(c) local observations with respect to the naturalized flows or water levels of minimum values observed during periods of prolonged droughts;</p> <p>(d) where water flow is known to be normally perennial, then the reserve quantity shall be sufficient to ensure perennial flow; and</p> <p>(e) consultations with associations of water users if such exists;</p> <p>However there is no provision to establish ambient water quality objectives and to ensure they are maintained, and to publish resource quality objectives</p> <p>In addition, there is inadequate detailed process guidance available to enable evaluation of whether the rules, processes and standards considered adequate for delivery with integrity</p> | | | |
| <p>Water Resources Act 2013.</p> <p>Water Resources Regulation 2018</p> | <p>Water Resources Act 2013.</p> <p>Environmental Management Act 2017</p> | | <p>Water Resources Regulation 2018</p> |

4. Planning of water resource availability, provision and allocation within sustainable limits.

4.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>The Water Resources Act 2013 provides in S35 for the generation of a National Water Resources Master Plan</p> <p>(2) The National Water Resources Master Plan shall, among other things, address matters relating to -</p> <p>(a) a water balance for each catchment area that compares forecasted water demand with data and information regarding water availability;</p> <p>(b) proposed options for meeting forecasted demand for each catchment area in which forecasted water demands exceeds available supply, which options may include-</p> <p>(i) water demand management programmes;</p> <p>(ii) necessary infrastructure construction;</p> <p>(iii) any other measure, including appropriate legal reforms considered necessary in achieving the objectives of the National Water Resources Master Plan;</p> <p>(c) the protection of water resources from over-exploitation and from pollution; and</p> <p>(d) the conservation of water resources, including through the recycling and re-use of wastewater, the harvesting of rainwater, and</p> | <p>The Water Resources Act 2013 provides the roles and duties required to deliver this function_S8._</p> <p>(1) There is hereby established an Authority to be known as the National Water Resources Authority (NWRA) to effectively and efficiently manage the country’s water resources using IWRM approach.</p> <p>S 35.__(1) The Minister may, on the basis of data progressively generated under water resources investigations, require the Authority to__</p> <p>(a) prepare, review and keep up to date, a comprehensive plan for the investigation, use, control, protection, conservation, management and administration of water resources for the nation; and</p> <p>(b) recommend any revision of it</p> <p>National Water Policy Implementation Plan (2005) MoIWD, DAs & NGOs were tasked with establishing (i) three Catchment Management Authorities and devolving water resources management to catchment level using IWRM approach; (ii) a sustainable groundwater monitoring network and improving a surface water monitoring network including developing water quality maps.</p> | <p>The National Water Policy (2005) outlines a plan on how to monitor and evaluate the performance of the implementation plan of the policy with the view of assessing whether the objectives and outputs are being realized.</p> <p>The National Policy Implementation Plan (National Water Policy 2005 Ch 10) has an objective to ensure equitable allocation and apportionment of water to all sectors of socioeconomic production and services.</p> <p>p42_MoIWD has the responsibility to monitor and evaluate the performance of the implementation plan of the policy with the view of assessing whether the objectives and outputs are being realized. It is to achieve this through:</p> <p>1.1 Developing procedures for monitoring and evaluation of the policy implementation;</p> <p>1.2 Undertaking periodic reviews of the specific programmes of the policy implementation;</p> | <p>The Water Resources Regulations 2018 allows for reporting and complaints procedure relating to any violations of any water reserve.</p> <p>S142. — (1) The Authority shall make the reserve information on water resources accessible to the public.</p> <p>(2) Any person may make written report or complaint to any office of the Authority within the relevant catchment area or to the Executive Director if—</p> <p>(a) he is unable to obtain sufficient water from the water resource for basic human needs as a result of the reserve being violated; and</p> <p>(7) Where the Authority considers that the reserve quantity and or quality is threatened, it shall cause to be placed in or near the water resource or in a public place frequented by the water users of a particular resource a legible signboard displaying the current condition of the resource and action</p> |

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| <p>any other suitable conservation practice and technique.</p> <p>In the National Water Policy Implementation Plan (2005) MoIWD, DAs & NGOs are tasked with designing and implementing an appropriate water resources assessment methodology including establishment of a computerized networked database by 2007.</p> <p>In addition, the National Water Policy Implementation Plan (Ch 10) sets out an objective to develop strategic and contingency water supply reserves and sanitation back-up services.</p> | <p>However there is an overlap with the National Water Policy assigning the role to the Ministry Responsible for Water Affairs to:</p> <p>9.1.2 Monitor (in terms of quality and quantity), assess, plan, develop, conserve, allocate and protect water</p> | <p>1.3 Conducting participatory consultative meetings with the relevant stakeholders to assess the impact of the programme</p> | <p>required by the water users to safeguard the Reserve.</p> |
| <p>Water Resources Act 2013. National Water Policy 2005</p> | <p>Water Resources Act 2013. National Water Policy 2005</p> | <p>National Water Policy 2005</p> | |

5. Water abstraction permitting - determination, monitoring, enforcement and charging.

5.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>The Water Resources Act 2013 provides for the rules, processes and standards for permitting, determination, monitoring, enforcement and charging relating to water abstraction and use from S 37 to S 65.</p> <p>The Water Resources Regulation 2018 provides for guidance on licensing of water abstraction and use. S16 to S 32</p> | <p>The National Water Policy 2005 assigns the NWRA to be responsible for:</p> <ol style="list-style-type: none"> 1. 9.2.3 Determine and collect fees related to water abstractions and discharges; 2. 9.2.7 Control and apportion water use in the country; and 3. 9.2.8 Issue water abstraction and discharge licences. | <p>The National Water Policy 2005 assigns the Ministry to be responsible to 9.1.2 Monitor (in terms of quality and quantity), assess, plan, develop, conserve, allocate and protect water resources for utilisation in the social and economic sectors of production and services;</p> <p>The Water Resources Act provides as a function of the NWRA (d) to monitor</p> | <p>The Water Resources Regulation 2018 outlines fees, charges and penalties relating to water abstraction under FORM U.</p> <p>All abstraction related functions of NWRA are subject to considerations of Government policy on environment management and conservation.</p> |

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| | | <p>and enforce conditions attached to permits for water use.</p> <p>In terms of procedure the Water Resources Regulation 2018</p> <p>S 111. Where applicable, the Authority shall, require an applicant to show evidence of compliance with the provisions of the Environment Management Act.</p> <p>S 112.— (1) Within two years of coming into force of these Regulations, every authorized major water user, whether for water abstraction or effluent discharge, shall be required to have installed a controlling device and measuring device for the accurate measurement of water abstracted, obstructed or diverted and for effluent discharged, as the case may be.</p> <p>Self-assessment of water used is also provided by Water Resources Regulation 2018</p> <p>S 119.— (1) A licensee or any person who is required to have a valid licence shall make a fair assessment of the quantity and quality of water used by him with respect to each licence.</p> <p>Water and effluent charges and fees Variation of water and effluent charges</p> <p>(2) A licensee shall submit to the Authority his assessment of water used with supporting records and calculations.</p> <p>(3) Where a licensee does not submit a fair assessment of the quantity of water used by him, the Authority shall make a fair estimate of the quantity of water used.</p> | <p>S 142 (2) Any person may make written report or complaint to any office of the Authority within the relevant catchment area or to the Executive Director if—</p> <p>(a) he is unable to obtain sufficient water from the water resource for basic human needs as a result of the reserve being violated; and</p> <p>(b) from his observations, he considers that the ecology is threatened as a result of the reserve being violated.</p> <p>(3) Each complaint or report registered with the Authority in regard to a violation of the reserve quantity or quality shall be given a Complaint Number by the Authority which shall Information on, and protection of, the reserve</p> |
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| | | <p>(4) In making this assessment, the Authority shall be guided by the allocation in the licence and by observations and evidence of water use activities.</p> <p>(5) Where the assessed quantity of water used as determined by the water user or by the Authority is twenty-five percent more or less than the permitted allocation taking into account seasonal variations, the Authority may re-evaluate and vary the permitted allocation.</p> <p>(6) Where the licensee and the Authority fail to agree on the assessment of the quantity of water used, the opinion of the Authority shall prevail and any payment due shall be made.</p> <p>(7) If, after payment under sub-regulation (6), the licensee is dissatisfied with the Authority's assessment, he may appeal against the assessment in accordance with section 142 of the Act.</p> <p>S172. — (1) The Authority shall maintain and keep a register of licences and permits issued by the Authority under the Act and these Regulations.</p> <p>(2) The register shall contain the information set out in the Nineteenth Schedule and any other information, which the Authority may consider appropriate.</p> | |
| <p>Water Resources Act 2013. Water Resources Regulation 2018</p> | <p>National Water Policy 2005</p> | <p>Water Resources Act 2013.</p> | <p>Water Resources Regulation 2018</p> |

6. Groundwater protection and regulation of boreholes and drilling.

6.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>S 66 to S 84 Water Resources Act 2013 provide for control and protection of groundwater. This covers regulation of boreholes and drilling.</p> <p>The Water Resources Regulation 2018 S66 to S79 provides for groundwater management, development and administration.</p> | <p>The Water Resources Act 2013 S10 and Water Resource Regulation 2018 Chap V. are clear that the NWRA is the Authority responsible for groundwater protection and regulation of boreholes and drilling.</p> <p>National Water Policy 2005 Implementation Plan (Ch 10) identifies (i) MoIWD, DAs & NGOs as being responsible for establishing a sustainable groundwater monitoring network and (ii) MoIWD, NWRA, DAs & NGOs & Private Sectors as being responsible for reviewing and disseminating procedures, guidelines and regulations governing surface and ground water development activities.</p> | <p>The National Water Resources Master Plan review report outlines current situation regarding ground water management and outlines road map for improving ground water management.</p> <p>The Water Resources Regulation 2018 provides for Regulation of groundwater development.</p> <p>S70 (1) A holder of a drilling permit shall— (a) keep a written report of each borehole constructed containing the information specified in the Seventh Schedule; and (b) Within the time determined by the Authority, in each year, provide the Authority with a record of all the work that has been undertaken under the drilling permit during the preceding ninety days, which shall be in such form and contain such information as the Authority, may specify.</p> <p>S71.— (1) A holder of a construction permit shall, within ninety days of completion of any works, provide the Authority with a construction completion report in respect of those works, which shall—</p> | <p>The Water Resources Regulation outlines processes and procedures on:</p> <ol style="list-style-type: none"> 1. Twenty Third Schedule - Fees, Charges and Penalties 2. Twenty Fourth Schedule- Format for Report on Complaints 3. Twenty Fifth Schedule - Appeal against decision of the Authority, authorized person or public authority made under this Part of the Act |

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| | | <p>(a) be in a form specified in the Seventh Schedule hereto;</p> <p>(b) include plans and drawings of all works as constructed; and</p> <p>(c) contain such other information as the Authority may, in writing, specify.</p> <p>S72.— (1) The holder of a drilling permit or construction permit and plans shall, at all reasonable times, allow a person authorized in writing by the Authority to do all or any of the following—</p> <p>(a) inspect any borehole constructed or being constructed under a permit issued under this Part;</p> <p>(b) inspect any construction works carried out or being carried out under a permit issued under this Part;</p> <p>(c) inspect and take copies of any plans or drawings of the works; or</p> <p>S 76. All boreholes to be equipped with motorized pump shall be constructed under the supervision of a qualified water resource professional.</p> | |
| <p>Water Resources Act 2013. Water Resources Regulation 2018</p> | <p>Water Resources Act 2013. Water Resources Regulation 2018</p> | <p>National Water Resources Review Report 2017</p> <p>Master Plan Water Resources Regulation 2018</p> | <p>Water Resources Regulation 2018</p> |

7. Pollution control: monitoring and enforcement, wastewater discharge licencing and charging

7.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>The Water Resources Act 2013 S88 to S103 provides for the prevention and control of water pollution. The act provides for</p> <p>S91. Standard of effluent quality. The Minister shall after consultation with competent authorities, prescribe standards of effluent quality with which effluent discharges shall comply.</p> <p>S92. Application for effluent discharge permit (1) A person who wishes to discharge effluent shall apply to the Authority for a discharge permit in the prescribed manner.</p> <p>(2) The Authority shall, on receipt of an application under subsection (1), give public notice of the application in the prescribed manner.</p> <p>94. Terms and conditions of a discharge permit. (c) proper efficient discharge management, which__</p> <p>(i) Requires the monitoring, analysis and reporting on every discharge specifying the aspects of the discharge to be monitored and reported and specifying the devices to be used for such monitoring.</p> <p>The Water Resources Regulations provides for: Thirteenth Schedule - Water Quality Sampling Procedures</p> <p>The Environmental Management Act 2017 provides for pollution control.</p> | <p>The Water Resources Act afford the National Water Resources Authority (NWRA) the lead role.</p> <p>However, there is an overlap on this as the Malawi Environmental Management Act 2017 affords the Malawi Environmental Protection Authority (MEPA) the power to issue an effluent discharge licence into the aquatic environment.</p> <p>There is no clear description on how the two entities will execute the roles in collaboration.</p> | <p>The National Water Resources Master Plan Review Report 2017 outlines current situation regarding water quality conservation and pollution management from which is developed a road map outline for improving water quality and pollution management.</p> <p>The Water Resources Regulation specify that the NWRA must enforce and assess effluent discharge records</p> <p>S93.— (1) Any person discharging effluent shall maintain records of effluent discharge in terms of quantity and quality in accordance with the Effluent Discharge Management Plan approved by the Authority.</p> <p>(2) The effluent discharge records shall be submitted to the Authority, on a quarterly basis.</p> <p>(3) The effluent discharge records shall be maintained and shall be available for inspection by the Authority.</p> <p>S100.— (1) The Authority shall inspect and sample any sources of water pollution.</p> <p>(2) The Authority shall not be required to give prior notice when inspecting and sampling any services of pollution under sub regulation (1)</p> <p>The National Water Policy 2015 outlines a plan on how to monitor and evaluate</p> | <p>The Water Resources Regulation 2018 provides for corrective management:</p> <p>S95.— (1) The Authority may, at any time if any condition attached to an effluent discharge permit is not observed, give notice in writing to the holder of the permit requiring the permit holder to take such action in relation to the effluent within such time as the Authority may specify in the notice.</p> <p>(2) Where the holder of an effluent discharge permit fails to comply with the notice referred to in sub regulation (1) within the time specified in that notice or such longer time as the Authority may allow, the Authority may cancel the effluent discharge permit and enter the premises to which the effluent discharge permit relates and take such action as may be necessary to prevent any further discharge of waste which may come into contact with water directly or indirectly.</p> <p>notice measures and significant fines are available.</p> <p>S175. Any person who contravenes any provision of these Regulations or an order made under these Regulations commits an offence, shall be liable to the penalties prescribed in the Twenty Third Schedule and or in the Act.</p> |

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| <p>S61.--(1) A person shall not discharge or emit effluent into the aquatic environment except under a licence issued by the Authority, and subject to such conditions as the Authority shall determine.</p> <p>(2) Any person who owns or operates an industrial undertaking shall discharge any effluent or other pollutants originating from the trade or industrial undertaking only into existing sewerage system after pre-treatment to meet sewerage discharge standards;</p> <p>(3) The Authority may revoke any licence issued under this section if the licensee fails to comply with the conditions of the licence or any provision of this Part:</p> | | <p>the performance of the implementation plan of the policy with the view of assessing whether the objectives and outputs are being realized.</p> <p>The National Policy Implementation Plan has an objective to</p> <ul style="list-style-type: none"> To ensure good water quality and pollution control | <p>Appeal: S 176. A person whose application is rejected by the Authority may appeal against the decision of the Authority in accordance with section 142 of the Act and in the form specified in the Twenty Fifth Schedule.</p> <p>The Regulations outline procedures for:</p> <ol style="list-style-type: none"> Twenty Third Schedule - Fees, Charges and Penalties <p>Unlawful discharge of effluents</p> <ol style="list-style-type: none"> Domestic effluent Industrial/corporate effluent 2,000,000 or as calculated 10,000,000MKW and 10-years imprisonment or as calculated Twenty Fourth Schedule- Format for Report on Complaints Twenty Fifth Schedule - Appeal against decision of the Authority, authorized person or public authority made under this Part of the Act Twenty Sixth Schedule - Water abstraction and effluent discharge control and measuring devices |
| <p>Water Resources Act 2013. Environmental Management Act 2017 Water Resources Regulation 2018</p> | <p>Water Resources Act 2013. Environmental Management Act 2017</p> | <p>National Water Policy 2005 National Water Resources Master Plan Review Report 2017</p> | <p>Water Resources Regulation 2018</p> |

8. Social and Environmental Impact Assessment and Development Control

8.1 Scoring justification, references and notes

| <i>a. Rules, processes and standards</i> | <i>b. Responsibilities and duties</i> | <i>c. Performance monitoring</i> | <i>d. Corrective measures, incentives, and sanctions</i> |
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| <p>National Water Policy 2005 states that 3.4.18 All major water projects should undergo Environmental Impact Assessment (EIA).</p> <p>The Environment Management Act 2017 provides for: Environmental and Social Impact Assessment Monitoring and Auditing</p> <p>S31.--(1) The Minister responsible for Environmental Affairs may, on the recommendation of the Authority, specify, by notice published in the Gazette, the type and size of a project which shall not be implemented unless an Environmental and Social Impact Assessment is carried out.</p> <p>(2) A person shall not undertake any project for which an Environmental and Social Impact Assessment is required without the written approval of the Authority, and except in accordance with any conditions imposed in that approval.</p> <p>(3) Any other licensing authority shall not grant a permit or licence for the execution of a project referred to in subsection (1) unless an approval for the project is granted by the Authority, or the grant of the permit or licence is made conditional upon the approval of the Authority being granted.</p> <p>(4) The Minister may, on the advice of the Authority, make regulations for the effective</p> | <p>The structural framework indicates that EIA process is managed by the Director of Environmental Affairs (DEA), Environmental Affairs Department (EAD)</p> <p>Guidelines for Environmental Impact Assessment (EIA) in Malawi outline the following roles and responsibilities</p> <p>2.3.1 Environmental Affairs Department (EAD)</p> <p>2.3.1.1 Facilitating the EIA process</p> <p>2.3.1.2 Ensuring compliance with EIA provisions in the EMA</p> <p>2.3.1.3 Managing the production and updating of guidelines on EIA practice and procedures</p> <p>2.3.1.4 Assisting line agencies in the preparation of sector-specific guidelines on EIA practice and procedures</p> <p>2.3.1.5 Updating the list of prescribed projects</p> <p>2.3.1.6 Secretariat to the TCE</p> <p>2.3.1.7 Maintaining a register of projects being appraised under the EIA process</p> <p>2.3.1.8 Maintaining a central library of EIA reports</p> <p>2.3.1.9 Maintaining a directory of local, regional and international consultants capable of carrying out EIA studies. Criteria used in selecting the consultants will be outlined at the beginning of the directory.</p> <p>2.3.2 Technical Committee on the Environment (TCE)</p> | <p>The Environment Management Act provides for Environmental monitoring.</p> <p>S32.--(1) The Authority shall, in consultation with such lead agency as it may consider appropriate, carry out or cause to be carried out periodic environmental audits of any project for purposes of enforcing the provisions of this Act.</p> <p>(2) The owner of the premises or operator of a project for which an Environmental and Social Impact Assessment has been made shall keep records and make annual reports to the Authority describing how far the project conforms in operation with the statements made, in the Environmental and Social Impact Assessment.</p> <p>(3) A developer shall take all reasonable measures for mitigating any undesirable effects on the environment arising from the implementation of a project which could not reasonably be foreseen in the process of conducting an Environmental and Social Impact Assessment and shall, within a reasonable time, report to 'the Authority' on the effects and measures taken.</p> <p>(4) An inspector may enter any land or premises for the purpose</p> | <p>Guidelines for Environmental Impact Assessment (EIA) in Malawi provides for:</p> <p>A.6 Fees</p> <p>S-29. The Minister may, by notice published in the Gazette, prescribe such fees as may be necessary for covering reasonable costs for scrutinising environmental impact assessment reports and for the subsequent monitoring of a project which has been approved for implementation under this Act.</p> <p>A.7 Offences Relating to Environmental Impact Assessment</p> <p>S-63. Any person who contravenes Section 24(3) or fails to prepare an environmental impact assessment report or knowingly gives false information in an environmental impact assessment report contrary to section 25 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.</p> <p>A.8 Closure of premises</p> <p>S.76. (1) Where the Director believes, on reasonable grounds, that this Act or any regulations made hereunder have been contravened, the Director may, subject to subsection (2), order</p> |

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| <p>administration of Strategic Environmental Assessment, Environmental and Social Impact Assessment and Environmental Audit.</p> <p>The National Environmental Policy 2004 sets an objective to</p> <ol style="list-style-type: none"> 1. Develop, regularly review and administer guidelines for Environmental Impact Assessment (EIA), audits, monitoring, and evaluation so that adverse environmental impacts can be eliminated or mitigated and environmental benefits enhanced. <p>Guidelines for Environmental Impact Assessment (EIA) in Malawi outlines the EIA process.</p> <p>Screening; A process of determining what projects should be subject to EIA requirements</p> <p>Scoping; Establishes the principal issues to be addressed in an EIA. This is performed by a project preparation team comprising of the developer and a multi-disciplinary team of experts. The team should ensure that there is public participation in the EIA process.</p> <p>EIA study Five major stages and the report</p> <ol style="list-style-type: none"> 1 Identification-What will happen as a result of the project? 2 Prediction-What will be the extent of the change brought about by the project? 3 Evaluation and Interpretation -Do the changes matter? | <p>2.3.2.1 Evaluating Project Briefs, EIA terms-of-reference and EIA reports</p> <p>2.3.2.2 Developing project approval terms and conditions</p> <p>2.3.2.3 Reviewing and monitoring project auditing programmes</p> <p>2.3.2.4 Recommending courses of action to the Director. Reporting to NCE</p> <p>2.3.5 National Economic Council (NEC)</p> <p>2.3.5.1 Determining if public-sector projects are prescribed under the EMA and referring PSDs to the Director of Environmental Affairs</p> <p>2.3.5.2 Assisting the EAD and TCE in updating the list of prescribed projects (e.g. adding or deleting project types, establishing size thresholds for project referral to the Director)</p> <p>2.3.5.3 Participating on the TCE</p> <p>2.3.5.4 Working with the EAD and TCE to develop and streamline their working relationship on EIA activities</p> <p>2.3.6 Sectoral/Line Ministries</p> <p>2.3.6.1 Ensuring that their own projects prescribed under the EMA adhere to the EIA requirements</p> <p>2.3.6.2 Ensuring that private-sector projects over which they have jurisdiction adhere to the EIA requirements</p> <p>2.3.6.3 Participating on the TCE</p> <p>2.3.6.4 Providing information and advice to project developers</p> <p>2.3.6.5 Advising project developers on regulations and monitoring requirements related to licensing their projects</p> <p>2.3.6.6 Incorporating DEA approval terms and conditions in project licences</p> | <p>of determining how far the activities carried out on that land or premises conform to the statements made in the Environmental and Social Impact Assessment.</p> <p>33.-(1) The Authority shall, in consultation with any lead agency, monitor-</p> <ol style="list-style-type: none"> (a) all environmental phenomena with a view to making an assessment of any possible changes in the environment and their possible impacts; and (b) the operation of any industry, project or activity with a view to determining its immediate and long-term effects on the environment. <p>(2) The Authority shall require a developer whose project requires an Environmental and Social Impact Assessment licence to prepare and submit to the Authority, environmental management plans in a form and manner prescribed by the Authority.</p> <p>(3) An inspector may enter upon any land or premises for the purpose of monitoring the effects on the environment of any activities carried out on that land or premises and to enforce compliance with the environmental mitigation and management plans prescribed under subsection (2).</p> <p>Guidelines for Environmental Impact Assessment (EIA) in Malawi indicates that:</p> <p>Managing Compliance with EIA Results</p> <p>Compliance with the terms and conditions of project approvals under the EMA is managed through project audits</p> | <p>the closure of any premises by means of, or in relation to which the Director reasonably believes the contravention was committed.</p> <p>(2) The closure of any premises shall cease after the provisions of this Act or any regulations made hereunder have been instituted in respect of the contravention, in which event the premises shall remain closed until the proceedings are finally concluded.</p> |
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| <p>4 Mitigation-What can be done about the changes?</p> <p>5 Monitoring and Management-What are the monitoring and management plans?</p> <p>6 Report How can decision-makers be informed of -what needs to be done, given the various alternatives?</p> | <p>2.3.6.7 Ensuring that project licensing terms and conditions are met, including those specified by the Director of Environmental Affairs</p> <p>2.3.7 Malawi Investment Promotion Agency (MIPA)/Chamber of Commerce/Local Authorities</p> <p>2.3.7.1 Review project briefs from the private sector 2.3.7.2 Make recommendations to the DEA 2.3.7.3 Monitoring compliance by investors</p> <p>2.3.8 Local Training Institutions</p> <p>2.3.8.1 Developing and executing short term training programmes on EIA 2.3.8.2 Institutionalise environmental education</p> <p>2.3.9 Non-Governmental Organisations</p> <p>2.3.9.1 Monitoring compliance with EIAs 2.3.9.2 Identifying projects with potential adverse environmental effects 2.3.9.3 Participating on the TCE</p> <p>2.3.10 Project Developers</p> <p>2.3.10.1 Preparing Project Briefs and EIA terms-of-reference and statements and where they are not able to do so, they should seek the services of the DEA. 2.3.10.2 Implementing terms and conditions attached to DEA project approvals 2.3.10.3 Reporting on compliance with terms and conditions of DEA approval to the DEA/TCE and licensing authorities</p> <p>2.3.11 Public</p> <p>2.3.11.1 Contributing information and advice to EIA studies 2.3.11.2 Commenting on the content of EIA reports</p> | <p>developed by the TCE and approved by the Director.</p> | |
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| | <p>2.3.11.3 Advising project developers and the DEA/TCE on practical approaches for avoiding, minimising or compensating for adverse environmental impacts</p> <p>Ensuring coordination among different institutions in the EIA process. Coordination is ensured through the secretarial services provided by the Director to the NCE which reports through the chair to the Minister. The TCE will provide technical assistance to the NCE.</p> <p>The National Water Policy 2005 states that MoIWD and Department of Disaster Preparedness (DDPR) are responsible for improving assessment of impact of water-related disasters and undertake effective response to prevent mortality and reduce morbidity and suffering among affected communities</p> | | |
| <p>The National Water Policy 2005 Environmental Management Act 2017 National Environmental Policy 2004 Guidelines for Environmental Impact Assessment (EIA) in Malawi document</p> | <p>National Environmental Policy 2004 Guidelines for Environmental Impact Assessment (EIA) in Malawi document The National Water Policy 2005</p> | <p>Environmental Management Act 2004 Guidelines for Environmental Impact Assessment (EIA) in Malawi document</p> | <p>Guidelines for Environmental Impact Assessment (EIA) in Malawi document</p> |

Annex 2: Overarching Sector Governance Evaluation Table

1. Sector governance framework

Scoring justification, references and notes

| a. Rules, processes and standards | b. Responsibilities and duties | c. Performance monitoring | d. Corrective measures, incentives, and sanctions |
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| <p>The National Water Resource Master Plan Existing situation report 2017 describes the water sector governance framework as below.</p> <p>1. Institutional Framework for Water Resources Management as below:</p> <p><i>Water resources have multifunctional roles for different purposes: agriculture, industrial production, potable water for drinking and domestic use, and hydropower generation. Currently, different ministries and institutions are taking charge of respective areas of water use. The management of national water resources is primarily the responsibility of the Ministry responsible for Water Development for policy making, supervision and direction in the areas of irrigation, water supply, and water for production. Regional water boards were created under the Water Works Act No. 17 of 1995 while LWB and BWB were reconstituted under the same so that there are now five water boards responsible for supplying potable water to urban areas. The responsibility of supplying water to the rural</i></p> | <p>The Water Resources Act 2013 provides for the National Water Policy to prescribe the principles, objectives, procedures and institutional arrangements for the management, protection, use, development, conservation and control of water resources</p> <p>The National Water Policy 2005 describes the Ministry responsible for Water Affairs as the lead institution to undertake the monitoring and evaluation's activities of the implementation plan of this policy.</p> <p>The National Water Policy also outlines the institutional roles and linkages of key water sector stakeholders. These include Ministry responsible for Water Affairs, National Water Resources Authority, Water Utilities, Local Governments, Ministry responsible for Agriculture, Ministry responsible for Irrigation, Ministry responsible for Natural Resources, Ministry responsible for Health, Ministries responsible for Gender, Youth and Community Services, Ministry responsible for Education, Ministries responsible for Lands, Physical Planning and Human Settlements, other public holders, NGOs, Civil Society, private sector, Universities and other training institutions.</p> | <p>The National Water Policy 2005 outlines the Ministry responsible for Water Affairs to oversee performance monitoring of the sector governance framework with powers vested in the Minister.</p> <p>The Joint Sector Review presents an opportunity to the stakeholders to assess and review the performance of the sector governance structure and provide recommendations.</p> <p>The Water Resources Act provides for the appointment of the governing body for the NWRA, which will give direction on how to perform its mandate. Other relevant water sector institution such as water utilities also have Independent Boards of Directors in sector institutions</p> | <p>Provision for users to complain and take legal action against providers</p> <p>The Water Resources Act 2013 provides for the establishment of a tribunal to be known as the Water Tribunal.</p> <p>The Water Tribunal shall be appointed by the Minister and shall consist of (a) a Chairperson; (b) a Deputy Chairperson; and (c) three other persons. The Chairperson shall be a person qualified to hold the office of a judge of the High Court of Malawi. Only persons with knowledge of law, engineering, water resources management or related field, may be appointed to the Tribunal for a period of five years and may be reappointed for one more period of five years. The terms and conditions of the members of the Water Tribunal are determined by the Minister in consultation with the Minister of Finance. Expenses of the Water Tribunal shall be paid out</p> |

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| <p><i>communities other than those covered by the water boards has remained with the Ministry responsible for Water Development</i></p> <p><i>There are several other governmental stakeholders involved in the integrated management of water resources. The Ministry of Natural Resources, Energy and Mining (MoNREM) is responsible for hydropower development. There is already a master plan on energy development including hydropower produced for the MoNREE. The Department of Forestry is responsible for managing forestry resources in a sustainable manner by declaring some forest reserve as controlled areas. The Department of National Parks and Wildlife, through the National Parks Act, is responsible for the conservation and management of National Parks, Wildlife Reserves and other protected areas so as to ensure their protection from degradation in trying to maintain the biodiversity of natural ecosystem.</i></p> <p><i>The responsibility of managing fish resources through the sustainable utilisation and the conservation of aquatic biodiversity is conferred upon Department of Fisheries. The Department of Environmental Affairs, through the Environment Act, is responsible for the protection and management of the environment through the conservation and sustainable utilisation of all natural resources. The Department responsible for Meteorology is charged with the collecting, processing and dissemination of all meteorological data which include rainfall,</i></p> | <p>The National Water Policy indicates as a key strategic intervention the conducting of participatory consultative meetings with the relevant stakeholders to assess the impact of the policy implementation programme. These include Joint Sector Review Process / Sector KPIs and participatory oversight and review to ensure policy, resources, capacity and financing are in place and performing well for societal wellbeing</p> | | <p>of money appropriated by Parliament for that purpose.</p> <p>The Jurisdiction of the Water Tribunal</p> <p>S127.__(1) An appeal shall lie to the Water Tribunal at the instance of any aggrieved person who has a right or proprietary interest which is directly affected by a decision or order of the Authority, the Minister or a catchment management committee concerning any matter regarding water resources management, a permit or licence under this Act, and the Water Tribunal shall hear and determine any such appeal.</p> <p>(2) In addition, the Water Tribunal shall have such jurisdiction to hear and determine disputes, and shall have such other powers and functions, as may be conferred or imposed on it by or under this or any other written law.</p> |
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| <p><i>temperature, relative humidity, wind speed, evaporation, length of sunshine hours, cloud cover and radiation. The local assemblies are mandated by the Local Government Act to provide sanitation services. This necessitates a clarification of roles and responsibilities at policy level to improve coordination to avoid duplication of efforts. The Ministry of Education through the Primary and Secondary School curricula plays a role in enhancing awareness on proper agricultural practices for land conservation which in a way leads to the protection of water resources. Universities also enhance awareness of water resources management through the provision of basic training in water related subjects such as water resources management, hydrology, hydraulics, irrigation, civil engineering, soil conservation and land husbandry.</i></p> <p><i>Non-Governmental Organisations (NGOs) complement the government efforts and have played and continue to play a vital role in water services delivery, especially to the rural communities and management of the environment.</i></p> <p><i>The Private Sector is also involved in water resources management, however, much of the focus has been in the water supply than in the water resources management. They have been played a role in shallow and deep boreholes, – drilled by government or private contractors; rural gravity fed schemes – pipes laid by community and project staff; small towns schemes – private sector or government construction; peri-urban piped</i></p> | | | |
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| <p><i>schemes – government and private and institutional schemes – mainly for farms, rural hospitals, religious institutions and in water efficient technologies such as water efficient showers and toilets. There is need for a deliberate policy to encourage the private sector to invest in integrated water resources management for the purpose of sustainable water supply.</i></p> <p>2. Policies and Legal Framework for National Water Development</p> <p>The policies and legislation that are related to water resources management. National Water Resources Master Plan. Main Report on Existing situation Table 3.4.1</p> <p>Sector policy development and review</p> <p>The current National water policy 2005 is meant to address all aspects of water including resource management, development and service delivery. The policy has articulated a new water sector vision of ‘Water and Sanitation for All, Always.’</p> <p>The policy document provides for the review of the implementation of the current policy. Monitoring would ensure that any changes experienced, or any problems encountered are addressed and corrected. Evaluation would enable Government and its partners assess to what extent policy implementation is achieving its goals and objectives.</p> | | | |
| <p>National Water Resource Master Plan Existing situation report 2017</p> | <p>Water Resources Act 2013</p> <p>National Water Policy 2005</p> | <p>The 12th Joint Sector Review Meeting Report 4th To 5th December 2019</p> | <p>Water Resources Act 2013</p> |

2. Anti-corruption policy and law

2.1 Scoring justification, references and notes

| a. Rules, processes and standards | b. Responsibilities and duties | c. Performance monitoring | d. Corrective measures, incentives, and sanctions |
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| <p>The Corrupt Practices Act 2004 provides for the establishment of an Anti-Corruption Bureau; to make comprehensive provision for the prevention of corruption; and to provide for matters connected with or incidental to the foregoing.</p> <p>The Act part II and III provides for Preventive functions: Regular corruption/fraud risk assessments, capacity development, Codes of conduct, conflict of interest policies, whistleblowing mechanisms and whistle-blower protection policies</p> <p>Acts part III outlines the functions of the Anti-Corruption Bureau to Investigation: investigation based on complaints and whistle-blower information, audit report, random integrity audits</p> | <p>According to the Corrupt Practices Act 2004</p> <p>S10 (1) The functions of the Anti-Corruption Bureau shall be to</p> <p>(a) take necessary measures for the prevention of corruption in public bodies and private bodies, including, in particular, measures for</p> <p>(i) examining the practices and procedures of public bodies and private bodies to facilitate the discovery of corrupt practices and secure the revision of methods of work or procedures which in the opinion of the Bureau may be prone or conducive to corrupt practices;</p> <p>(ii) advising public bodies and private bodies on ways and means of preventing corrupt practices, and on changes in methods of work or procedures of such public bodies and private bodies compatible with the effective performance of their duties, which the Bureau considers necessary to reduce the likelihood of the occurrence of corrupt practices;</p> | <p>The Corrupt Practices Act 2004 provides</p> <p>S21(1) The Director shall, within three months after the end of every year, submit to the National Assembly and to the President, the Cabinet, and the Minister a report on the activities of the Bureau during the previous year.</p> <p>(2) The Minister shall formally lay the report submitted under subsection (1) in the National Assembly within fourteen days of the date of the report or, if the National Assembly is then not sitting, within the first fourteen days of the next sitting of the National Assembly.</p> <p>(3) Any competent committee of the National Assembly may at any time summon the</p> <p>Director to appear before it to answer questions on the contents of the report submitted under subsection (1) and generally to give account of the performance</p> | <p>The Corrupt Practices Act 2004 provides for: Sanctioning: law enforcement, disciplinary sanctions</p> <p>Part IV outlines corrupt offences deemed as corrupt practice by the act. S 24 to S36B</p> <p>Part V outlines additional penalties and recovery of corrupt advantage. S37 to S41</p> |

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| | <p>(iii) disseminating information on the evil and dangerous effects of corrupt practices on society;</p> <p>(iv) enlisting and fostering public support against corrupt practices;</p> <p>(b) receive any complaints, report or other information of any alleged or suspected corrupt practice or offence under this Act;</p> <p>(c) investigate any complaint, report or other information received under paragraph (b);</p> <p>(d) investigate any alleged or suspected offence under this Act;</p> <p>(e) investigate any offence under any written law disclosed in the course of investigating any alleged or suspected corrupt practice or offence under this Act;</p> <p>(f) subject to the directions of the Director of Public Prosecutions prosecute any offence under this Act;</p> <p>(g) investigate the conduct of any public officer which, in the opinion of the Bureau, may be connected with, or conducive to, corrupt practices and to report thereon to the appropriate authority;</p> <p>(1) inquire into any matter in relation to the exercise of its other functions under this section.</p> <p>(2) The Bureau may decline to conduct an investigation into any complaint alleging an offence under this Act or to proceed</p> | <p>Impersonation, etc., of officers of the Bureau</p> | |
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| | <p>further with any investigation if the Bureau is satisfied that</p> <p>(a) the complaint is trivial, frivolous, vexatious or not made in good faith; or</p> <p>(b) the investigation would be unnecessary, improper or futile.</p> <p>(3) In any case in which the Bureau declines to conduct an investigation, or to proceed further with any investigation, the Bureau shall inform the complainant in writing of its decision.</p> <p>(4) Where the Bureau has carried out any investigation of any alleged or suspected corrupt practice or offence under this Act, it may, if it considers it necessary so to do, report its findings and recommendations to the appropriate authority regarding any matter which reveals, or points to, the existence or prevalence of any conduct connected with; or conducive to, corrupt practices; and in any such report, the Bureau may require the appropriate authority to take or institute such corrective action or measure as the Bureau shall reasonably specify in the report or to explain to the Bureau why such action or measure may not be taken or instituted, or what other action or measure may instead be taken or instituted, and the Bureau may make such modification to its recommendations or requirements as it may consider desirable.</p> | | |
| Corrupt Practices Act 2004 | Corrupt Practices Act 2004 9 Corrupt Practices Act No 17 of 2004 | Corrupt Practices Act 2004 | Corrupt Practices Act 2004 |

3. Public finance and procurement

3.1 Scoring justification, references and notes

| a. Rules, processes and standards | b. Responsibilities and duties | c. Performance monitoring | d. Corrective measures, incentives, and sanctions |
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| <p>Information disclosure requirements</p> <p>The Public Finance Management Act 2003 requires</p> <p>S15.-0) The Minister shall lay before the National Assembly, with the Estimates, a written budget policy statement.</p> <p>(2) The budget policy statement shall include-</p> <p>(a) a budget message, which shall include such supporting financial, statistical, output performance, and other information, data and recommendations as the Minister may determine are in the public interest and consistent with the principles of fiscal responsibility set out in section 12; and</p> <p>(b) a statement, including forecasts, providing a projection of expenditures for each category of outputs for the ensuing financial year and the two years following that financial year including-</p> <p>(i) the details of the estimated revenue of the Government;</p> <p>(ii) the details of the estimated expenditures of the Government;</p> | <p>The Public Finance Management Act gives the Minister of Finance the responsibility on delivering this function with support from Secretary to the Treasury and delegated power to Controlling Officers financing of the water sector.</p> <p>In terms of public audits, the responsibility is within the office of the Auditor General as provided by the Public Audit Act 2003</p> <p>In terms of procurement oversight is done by the Malawi Government through Public Procurement and Disposal of Assets Authority;</p> <p>S 5.--(1) The Authority shall be responsible for the regulation, the Authority monitoring and oversight of public procurement and disposal of assets in Malawi.</p> <p>(2) Without prejudice to the generality of subsection (1), the functions of the Authority shall be-</p> <p>(a) to develop and enhance the efficiency and effectiveness of public procurement and disposal of assets operations;</p> | <p>Legislation sets out how monitoring should occur.</p> <p>The Public Audit Act 2003 provides for Public Accounts Committee: S 18. The purposes and objectives of this Part are to give effect to the principle of the accountability of Government to the public, acting through the Public Accounts Committee (in this Act otherwise referred to as the "Committee"), by__</p> <p>(a) Making available such information as will enable the National Assembly to be informed of the management of public expenditure, public money and public resources;</p> <p>(b) Promoting accountability of Ministers and members of the National Assembly, where public expenditure, public money and public resources are concerned;</p> <p>(c) Holding accountable Ministries, agencies and other entities controlled by Government for the</p> | <p>The Public Finance Management Act 2003 PART X provides for Disciplining of Controlling Officers and Chief Executives in certain circumstances and</p> <p>Offences S 88.- (1) A person commits an offence who</p> <p>(a) in connection with an inspection or inquiry under this Act refuses, or without reasonable excuse fails, to attend at a time and place required of him by the Secretary to the Treasury;</p> <p>(b) refuses to produce any records in his possession when required to do so under this Act;</p> <p>(c) refuses or neglects to pay any public money or trust money into the account or fund into which it is payable;</p> <p>(d) refuses to provide reports under this Act;</p> |

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| <p>(iii) the Government's debt management responsibilities and, where applicable, the details of a financial plan to meet those responsibilities; and</p> <p>(iv) a statement that the annual budget is fiscally responsible in accordance with the principles set out in section 12.</p> <p>16.-(1) The Minister shall submit to the National Assembly, at Fiscal Strategy the same time as, and in addition to, the budget policy statement referred to in section 15 a report on the Government's fiscal strategy.</p> <p>(2) The report on the fiscal strategy shall-</p> <p>(a) include an assessment of the extent to which the budget policy statement is consistent with the economic and fiscal policy statement required under section 14;</p> <p>(b) include an explanation of the reasons for any significant differences between the current economic and financial situation of the State and the information and intentions presented in the previous economic and fiscal policy statement required under section 14,;</p> <p>(c) where the circumstances have changed, present an amended set of intentions; and</p> <p>(d) provide projections of movements in the variables specified in sections 18 and 19 which demonstrate intended progress towards achieving the longer-term objectives specified in the economic and fiscal policy statement most recently published and state the significant assumptions on which the projections are based.</p> <p>S 20. Every Controlling Officer and the head of every agency of Government shall provide to the Secretary to the Treasury such relevant information, as may be in his possession, that will assist the Secretary to the Treasury</p> | <p>(b) to develop standardized and unified procurement and disposal of assets regulations, instructions, and bidding documents which shall be binding on all procuring and disposing entities, in consultation with concerned professional and official entities, for issuance by the relevant authorities for use throughout Malawi;</p> <p>(c) to establish and maintain institutional linkages with Malawi Institute of Procurement and Supply and other professional bodies having interest in regulating the ethical behaviour and standards of supply chain management professionals;</p> <p>(d) to collect and establish a data and information base on public procurement and disposal of assets and monitor the performance of procuring and disposing entities and suppliers, contractors, consultants and other service providers so as to ascertain efficiency and compliance with applicable legislation;</p> <p>(e) to maintain and circulate lists of debarred bidders, suppliers, contractors, consultants and other service providers;</p> <p>(j) to provide an annual report of procurement and disposal activities carried out by procuring and disposal entities within three months of the close of the financial year through the Authority to the Minister, who shall lay it before the</p> | <p>lawfulness, economy, efficiency and effectiveness with which they use public money and public resources; and</p> <p>(d) Promoting the accountability of statutory bodies and those other persons charged with the management of public money and public resources.</p> <p>In addition the Public Finance Management Act exists to foster and enhance effective and responsible economic and financial management by Government, including adherence to policy objectives; to provide accompanying accountability arrangements together with compliance with those arrangements; to require the Government to produce statements of proposed budget policy, confirmation of adherence to fiscal discipline, economic and fiscal statements, including economic and fiscal forecasts and updates, and performance information, including comprehensive financial statements; and for matters connected therewith and incidental thereto</p> <p>The Public Procurement and Disposal of Asset Act provides for</p> <p>S5 (2) (j) to provide an annual report of procurement and disposal</p> | <p>(c) intentionally or recklessly over-commits or overspends funds under his control or expends funds where there is no appropriation permitting such expenditure;</p> <p>(j) makes any statement or declaration or gives any certificate required to be made or given by or under this Act, knowing it to be false;</p> <p>(g) does any act or omission for the purpose of procuring for that person or for any other person or organization-</p> <p>(i) the improper payment of public money or trust money; or</p> <p>(ii) the improper use of public resources; or</p> <p>(h) wilfully fails to meet any obligation imposed on him under this Act.</p> <p>Obligation to report under the public finance management act</p> <p>(2) A person who commits an offence under subsection (1) is liable on conviction to a fine of K100,000 and to imprisonment for five years or where the person is a</p> |
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| <p>to produce the economic and fiscal data and reporting information required under this Part.</p> <p>Public reporting, possible in-year external oversight/monitoring</p> <p>The public finance management Act 2003 provides</p> <p>S17 (1) The Minister shall, no later than 30th June in each year, publish a report updating the economic and fiscal policy statement for the following financial year.</p> <p>(2) The economic and fiscal update report shall contain-</p> <p>(a) an economic and fiscal update for the current financial year, and forecasts for the following two financial years, containing the information specified in sections 18 and 19; and</p> <p>(b) a statement of the date on which the contents were finalized confirming that the data used was the most recent available.</p> <p>Parliamentary oversight</p> <p>The public finance management Act 2003 provides for</p> <p>S21.-(1) The Minister shall, not less than fourteen days before introducing the Estimates to the National Assembly, prepare and submit to Cabinet a statement of anticipated revenue for the forthcoming financial year together with a statement of the anticipated budgetary appropriations.</p> <p>(2) The Cabinet shall consider and approve a proposed budget and the Minister shall then cause the Ministry of Finance to prepare the Estimates, in accordance with the budget approved by Cabinet, for introduction to the National Assembly for the forthcoming financial year.</p> | <p>National Assembly, not less than six months from the date of report.</p> <p>(g) to refer some violations of this Act and the regulations relating to public procurement and disposal of public assets to the relevant budgetary and law enforcement authorities for appropriate action;</p> <p>(h) to facilitate administrative review of bid protests in accordance with Part IX; and</p> <p>(i) to carry out economic studies on public procurement and disposal of assets, comparisons, and future projections, so as to provide advice to the Government in respect of the mid-term and long-term policy it may formulate in public procurement and disposal of assets' matters;</p> <p>(3) In the' exercise of its functions under this Act, the Authority shall act in a manner that is impartial and independent.</p> | <p>activities carried out by procuring and disposal entities within three months of the close of the financial year through the Authority to the Minister, who shall lay it before the National Assembly, not less than six months from the date of report.</p> | <p>statutory body to a fine of K500,000.</p> <p>89.-0) A person who has knowledge of any circumstances which may cause him to consider that an offence under section 88 may have occurred shall report those circumstances to the Secretary to the Treasury.</p> <p>(2) A person who, without malice, alleges a breach of this Act to the Secretary to the Treasury shall not be penalized in any way whether the allegation is proved or not.</p> <p>In terms of public procurement the Public_Procurement_and_Disposal_of_Assets_Act_2017</p> <p>S58. The Director General may promulgate codes of conduct to Codes of guide the behaviour of public officials and bidders and suppliers conduct for public involved in public procurement or disposal processes.</p> <p>part ix of the act provides for administrative review and appeal</p> <p>S59: Right to Review</p> <p>S60: review of procedures</p> |
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| <p>(3) The Minister shall, on behalf of the Government, lay before the National Assembly a statement of the estimated receipts, grants, all other revenue and expenditure for the forthcoming financial year.</p> <p>(4) Details of statutory expenditure shall be included in the Estimates to present the total expenditure proposed in the Government's programmes or activities, but shall not be submitted to the vote of the National Assembly.</p> <p>Internal and external audit</p> <p>The public finance management Act 2003 provides for</p> <p>S 83.-(1) The Secretary to the Treasury shall, as soon as practicable, but not later than 31 October of each year, prepare in accordance with section 13, and send to the Auditor General the financial statements for that year in the form specified in the Fourth Schedule, including statements of any such funds and accounts as are by this Act or any other written law required to be included in the financial statements.</p> <p>(2) The Auditor General shall examine the financial statements and provide a written report to be attached to the financial statements for presentation to the National Assembly, and the report shall state whether, in the opinion of the Auditor General the financial statements-</p> <p>(a) have been prepared in accordance with this Act and any other written law; and</p> <p>(b) present fairly the matters required by this Act and any other written law.</p> <p>(3) If the Auditor General is not able to report in terms required by subsection (2), he shall state the reasons, and if the Auditor General is of the opinion that he did</p> | | | <p>S63. Provides for offences</p> <p>-(1) Any person who contravenes the provisions of this Act shall be guilty of an offence.</p> <p>(2) A person guilty of an offence under subsection (1), whose penalty has not been prescribed, shall be liable to a fine not less than K500,000 but not exceeding K5,000,000 or, in case of an individual, to imprisonment for five years and to such fine.</p> |
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| <p>not obtain all necessary information and explanations, he shall give particulars of the shortcomings.</p> <p>(5) The financial statements together with the report of the Auditor General shall be returned to the Secretary to the Treasury not later than six months from the end of the financial year to which they relate, and the Minister shall lay them before the National Assembly forthwith if the Assembly is then in session, and if the National Assembly is not in session at the commencement of the next ensuing session.</p> <p>(6) The financial statements, in such summarized form as may be authorized by the Minister, shall be published in the Gazette and in a newspaper with a wide circulation in Malawi.</p> <p>S84.- (1) The Secretary to the Treasury shall within one month of the end of each quarter, except the last quarter of every financial year, prepare and send to the Auditor General a summary of the receipts and payments of the Consolidated Fund from the beginning of the financial year to the end of that quarter.</p> <p>(2) Each summary referred to in subsection (1) after being certified by the Auditor General shall be returned not later than two months after the end of the quarter to which it relates to the Secretary to the Treasury, who shall forthwith publish the summary certified as aforesaid in the Gazette, and in a newspaper with a wide circulation in Malawi.</p> <p>(3) Every Controlling Officer shall supply to the Secretary to the Treasury, within fourteen days of the end of the month, a monthly summary of financial transactions in the form specified by the Secretary to the Treasury.</p> <p>S 85.- (1) All quarterly and monthly summaries required under section 84 shall include all receipts and payments</p> | | | |
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| <p>brought to charge by the Treasury during the period to which the summaries relate.</p> <p>(2) Imprests unaccounted for at the end of any quarter shall not be included in the payments, but shall be shown as balances in hand.</p> <p>S 86.-(1) Every Controlling Officer shall, within four months of the end of the financial year submit to the responsible Minister and to the Minister an annual report in a form approved by the Minister.</p> <p>(2) Annual reports required under this section to be submitted by a Ministry shall include information relevant to that Ministry taken from the financial statements required by section 83, and the Secretary to the Treasury shall certify the information contained in the statement as being a true extract from the financial statements.</p> <p>(3) On receiving the report under subsection (1) the Minister shall forward a copy to the President and, at the same time, table a copy in the National Assembly if it is in session, and if it is not in session, at the commencement of the next ensuing session.</p> <p>In addition, the Public Audit Act of 2003 provides power to the office of the Auditor general to:</p> <p>S6.- (1) Without limiting any other written law and subject to subsection (2), the Auditor General shall undertake a programme of audits, and in accordance with section 7 (2), examine transactions, books and accounts, and other public records of every Ministry, statutory office, office, agency, board, commission and bureau of the Government, and public funds received by a non-profit organization, including relevant international organizations.</p> | | | |
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| <p>Participatory budgeting</p> <p>The public finance management Act 2003 provides for the submission of budget to the National Assembly to be deliberated over.</p> <p>The Act also provides for under S14 (3) Any member of the public may, within twenty-eight days of the economic and fiscal policy statement being published, deliver in writing to the office of the Minister any submission that that person may have in respect of that statement.</p> <p>Public Procurement and Disposal of Assets Act 2017</p> <p>An Act to provide for the establishment of the Public Procurement and Disposal of Assets Authority; to provide for its functions and powers; to maximise economy and efficiency in public procurement and disposal of public assets; to provide for, and regulate, a decentralised institutional structure for the public procurement and disposal of public assets; and to provide for matters connected with or incidental thereto</p> <p>E-procurement</p> <p>The Public Procurement and Disposal Authority does manage an online procurement portal</p> | | | |
| <p>Public Procurement and Disposal of Assets Act 2017</p> <p>Water Resources Act 2013</p> <p>The Public Audit Act 2003</p> <p>Online www.ppda.mw</p> | <p>National Water Policy 2005</p> <p>Public Procurement and Disposal of Assets Act 2017</p> <p>Water Resources Act 2013</p> | <p>The Public Finance Management Act 2003</p> | <p>The Public Finance Management Act 2003</p> <p>Public Procurement and Disposal of Assets Act 2017</p> |

4. Stakeholder oversight and participation

4.1 Scoring justification, references and notes

| a. Rules, processes and standards | b. Responsibilities and duties | c. Performance monitoring | d. Corrective measures, incentives, and sanctions |
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| <p>The National Water Policy 2005 indicates as a key strategic intervention the conducting of participatory consultative meetings with the relevant stakeholders to assess the impact of the policy implementation programme. These include Joint Sector Review Process / Sector KPIs and participatory oversight and review to ensure policy, resources, capacity and financing are in place and performing well for societal wellbeing</p> <p>Civil action and public interest litigation against duty bearers</p> <p>The Water Resources Act 2013 provides for established a tribunal to be known as the Water Tribunal, appointed by the Minister.</p> <p>The Jurisdiction of the Water Tribunal</p> <p>S127.__(1) An appeal shall lie to the Water Tribunal at the instance of any aggrieved person who has a right or proprietary interest which is directly affected by a decision or order of the Authority, the Minister or a catchment management committee concerning any matter regarding water resources management, a permit or licence under this Act, and the Water Tribunal shall hear and determine any such appeal.</p> <p>(2) In addition, the Water Tribunal shall have such jurisdiction to hear and determine disputes, and shall have such other powers and functions, as may be conferred or imposed on it by or under this or any other written law.</p> <p>Freedom of information and data transparency.</p> <p>The Access to Information Bill (2020)</p> | <ol style="list-style-type: none"> The Water Resources Act 2013 assigns responsibility to convene and hear Civil Action and Public Interest litigation against duty bearers within the water sector as the duty of the water tribunal The Access to Information Bill provides assigns the responsibility to the Public Information Commission. The Ombudsman Act assigns The Ombudsman and public complaints/inquiry systems is the responsibility of the Office of Ombudsman The Ministry Responsible for Water Affairs is responsible for public communications and stakeholder engagement i.e. statutory requirement to inform of law, rights, obligations relating to the water sector <p>Specific Institutional roles outlined in the National Water Policy 2005 provides for how various stakeholders are to provide oversight and participate within the water sector.</p> <p>The water resources Act gives powers to stakeholders holding position within the</p> | <ol style="list-style-type: none"> There is no provision on performance monitoring relating to civil action and public interest litigation against duty bearers The Access to Information bill requires the Public Information Commission to submit a report by to National Assembly The Ombudsman is accountable to Parliament and is expected to report each year on his/her activities and the performance of his/her functions to the National Assembly and send a copy of such to the Cabinet and any other relevant organ of Government. The report includes a record of all complaints and applications to the office of Ombudsman, a record of the exercise of powers in relation to applications, of the remedies afforded to applicants in respect of | <ol style="list-style-type: none"> The Water Resources Act 2013 provides S129 (4) Any person aggrieved by the decision of the Water Tribunal may apply to the High Court for judicial review: Provided that on a matter of law, an appeal shall lie to the High Court. In terms of freedom of information and data transparency, the Access to Information bill provides for penalties and offences S41. Any person who wilfully conceals, destroys, mutilates, falsifies or otherwise alters a record containing information which has been requested with intent to prevent disclosure of the information commits an offence and is liable, on conviction, to a fine not K10,000 or to imprisonment for a term not exceeding five years. |

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| <p>An Act to provide for the right of access to information; to define the scope of public information the public has the right to access; to establish the (Independent) Public Information Commission and define its functions; to promote transparency and accountability of public officers; and to provide for matters connected with or incidental to the foregoing.</p> <p>Ombudsman and public complaints/inquiry systems</p> <p>The Office of Ombudsman (OoO) is an independent Public Institution established by the Constitution of the Republic of Malawi 1994 under Section 120 which provides that: “There shall be a public office known as the Office of the Ombudsman which shall have such powers, functions and responsibilities as are conferred upon that office by this Constitution and any other law. “The Ombudsman Act” No. 10 of 1996 compliments this provision.</p> <p>Jurisdiction: The Ombudsman has the following powers under section 124 (a) of the Constitution of the Republic of Malawi:</p> <ol style="list-style-type: none"> 1. Determine nature and extent of an investigation 2. Summon any person connected to any investigation. 3. Require immediate disclosure of information and production of documents of any kind. 4. To ask for systematic investigations into any public office where there is suspicion or allegation of administrative maladministration. 5. Question any person from any government office or arm, connected to an investigation. 6. Administer an oath or take an affirmation from any person who appears before him/her. 7. Institute contempt proceedings before Court against noncompliance with her investigative powers. 8. To recommend corrective action <p>Public communications and stakeholder engagement i.e. statutory requirement to inform of law, rights, obligations.</p> | <p>governing body to give direction on how the National Water Resources Authority shall function within the mandates provided for within the Act.</p> | <p>grievances and shall include a record of the general recommendations of the Ombudsman in respect of grievances.</p> <ol style="list-style-type: none"> 4. National Water Policy sets out how to monitor and evaluate the performance of the implementation plan of the policy with the view of assessing whether the objectives and outputs are being realized. This allows enable Government and its partners assess to what extent policy implementation is achieving its goals and objectives. 5. There is no oversight regarding Freedom to speak: Civic space and independent media | <ol style="list-style-type: none"> 3. The Ombudsman Act provides for S13. Offences and penalties 4. There are no Corrective measures, incentives, and sanctions for public communications and stakeholder engagement i.e. statutory requirement to inform of law, rights, and obligations. 5. There are no Corrective measures, incentives, and sanctions for Freedom to speak: Civic space and independent media |
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| <p>The National Water Policy 2005 assigns the Ministry Responsible for Water to: 9.1.3 Manage and disseminate water resources and sanitation information;</p> <p>In addition, the National Water Policy 2005 Chap 9.0 provides responsibility and roles, which various stakeholders participate through within the water sector. National Water Policy Implementation Plan indicates which stakeholder is responsible for overseeing and ensuring their participation in the implementation of specific objective relating to:</p> <ol style="list-style-type: none"> 1. Water Resources Management And Development 2. Water Quality And Pollution Control 3. Water Utilization 4. Disaster Management 5. Policy Monitoring And Evaluation <p>The Water Resources Act 2013 gives power to the Minister responsible for Water Affairs to appoint a governing body to give direction to the National Water Resources Authority (NWRA).</p> <p>S8 (3) The powers and functions of the Authority shall be exercised and performed under the direction of a governing board, which shall consist of__</p> <p>(a) The following members appointed by the Minister__</p> <p>(i) a representative of one of the established catchment management committees;</p> <p>(ii) one representative of associations of water users;</p> <p>(iii) one representative of a non-governmental organization (NGO) engaged in the water sector; and</p> <p>(iv) one member as the Minister may, in his discretion, appoint from the private sector as representing key private sector stakeholders.</p> <p>(b) the following ex-officio members__</p> | | | |
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| <p>(i) the Secretary responsible for water development or his designated representative;</p> <p>(ii) the Secretary responsible for health, or his designated representative;</p> <p>(iii) the Secretary responsible for tourism, or his designated representative;</p> <p>(iv) the Secretary responsible for agriculture, or his designated representative;</p> <p>(v) the Secretary responsible for irrigation, or his designated representative;</p> <p>In addition, the Act provides for procedure and guidance on what to consider in appointing individuals into the governing body.</p> <p>(4) In making the appointments, other than of the ex-officio members, the Minister shall have regard to__</p> <p>(a) the educational qualifications, experience, expertise, character and integrity of potential candidates for membership; and</p> <p>b) the degree to which water users, or water users of particular kinds, are represented on the board at the time the appointment is made.</p> <p>Freedom to speak: Civic space and independent media</p> <p>Article 35 of the Malawi Constitution guarantees freedom of expression while Article 36 makes provisions for a free press.</p> | | | |
| <p>National Water Policy 2005 Water Resources Act 2013 ACCESS TO INFORMATION BILL (MALAWI) 2020 Malawi Constitution The Ombudsman Act</p> | <p>National Water Policy 2005 Water Resources Act 2013 ACCESS TO INFORMATION BILL (MALAWI) 2020 Malawi Constitution The Ombudsman Act</p> | <p>National Water Policy 2005 ACCESS TO INFORMATION BILL (MALAWI) 2020 Malawi Constitution The Ombudsman Act</p> | <p>Water Resources Act 2013 ACCESS TO INFORMATION BILL (MALAWI) 2020 Malawi Constitution The Ombudsman Act</p> |

5. Performance management

5.1 Scoring justification, references and notes

| a. Rules, processes and standards | b. Responsibilities and duties | c. Performance monitoring | d. Corrective measures, incentives, and sanctions |
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| <p>Performance on Water Resources Management</p> <p>The Water Resources Act S 7 gives power to and outlines as the duty of the Minister responsible for water as follows:</p> <p>(2) The Minister shall promote the investigation, conservation and proper use of water resources throughout Malawi and ensure the effective exercise and performance by any authorities or persons under the control of the Minister of their powers and duties in relation to water.</p> <p>(3) The Minister shall be assisted in the discharge of his duties under this section by the Authority established under this Act.</p> <p>S 24. The Authority shall, at the end of each financial year, produce a progress report on its activities during that period and shall publish the report.</p> <p>Governance and performance of state-owned enterprises</p> <p>The Water Works Act 1995 provides for the establishment of Water Boards water-areas and for the administration of such water-areas for the development, operation and maintenance of waterworks and water-borne sewerage sanitation systems in Malawi and for matters incidental thereto or connected therewith.</p> <p>S 5.- (1) The Board shall consist of a Chairman, a representative of local authorities, the Constitution</p> | <ol style="list-style-type: none"> 1. The Water Works Act 1995 assigns responsibility to the Minister Responsible for Water Affairs to appoint a Board to oversee the functions of the water boards. 2. The Malawi Public Service Management Policy assigns the following roles to: <ul style="list-style-type: none"> • 4.1. Office of the President and Cabinet. The Office of the President (OPC) is responsible for the overall management and administration of the public service. • 4.2. Department of Human Resource Management and Development assigned to have overall management of civil servants 3. The Malawi constitution assigns the responsibility of ensuring independence of appointments and decision making from political or other undue influence to 2. The National Assembly may prescribe a category of civil servants, who by | <ol style="list-style-type: none"> 1. The water works act 1995 provide for under Part VII S49. <ol style="list-style-type: none"> (1) If the Minister has reasonable cause to suspect that – (a) the Board has failed to observe or perform any of the duties or obligations Inquiries by the conferred or imposed upon it by this or any other Act; Minister (b) the Board has done or performed any act, matter or thing without due authority, he may in his discretion, appoint a person or persons to inquire into such matter. (2) The Commissions of Inquiry Act shall apply to any inquiry under this Part, Cap. provided that for the purposes of an inquiry under this Part, those powers vested by the Commissions of Inquiry Act in the Minister responsible for the administration of that Act shall be deemed to be vested in the Minister responsible for the administration of this Act. 2. The Malawi Public Sector Reforms Policy for 2018 to 2022 assigns | <ol style="list-style-type: none"> 1. The water works act 1995 provide for under Part VII S49 (3) If, upon an inquiry under this Part, the Minister is satisfied that the Board has done or suffered any of the acts, matters or things referred to in subsection (1) (a) or (b), he may by order in writing, require the Board to remedy the same within such time as he may appoint. (4) If the Board fails to comply with an order of the Minister made under subsection (3), the Minister may, in addition to any other powers conferred on by this Act – (a) suspend the exercise by the Board of any of the powers conferred upon it by this or any other Act for such period as he may think fit; (b) remove from office all or any of the members and, in his discretion, appoint new members; 2. The public service act 1994 s7 to S14 provides for Corrective |

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| <p>Secretary for Education, the Secretary for Health and nine members, all of whom shall of the Board be appointed by the Minister, and five of whom shall be appointed to represent the interest of the water ratepayers in the water-area.</p> <p>Merit-based recruitment, appointment and promotion in civil service</p> <p>The Public Services Act 1994 S4. provides for entry into and advancement within the public service to be based on merit. S5 provides for appointments to posts based on bringing efficiency in the service</p> <p>Independence of appointments and decision making from political or other undue influence.</p> <p>Appointments to any posts above Principal Secretary to a department is vested in the President and for appointments into the civil service commission are also subjected to the President.</p> <p>The Malawi constitution S192 (1) provides that the members of the Civil Service Commission shall be appointed by the President, subject to satisfying the Committee Public Service Appointments as to the competence of persons so appointed to perform their duties as Civil Service Commissioners</p> <p>In terms of independences 193 (1) provides for 1. Members of the Civil Service shall ensure that the exercise of participation in political activities does not compromise their independent exercise of their functions, powers and duties as impartial servants of the general public.</p> | <p>reason of their seniority shall not be able to directly participate in political activities:</p> <p>Provided that -</p> <p>a. the civil servants so restricted shall have the right to resign to participate directly in political activities;</p> <p>b. nothing in this section shall be deemed to prejudice any civil servant having the absolute right to vote in accordance with this Constitution;</p> <p>c. without prejudice to subsection (1) any civil servant whose functions are not directly concerned with the formulation and administration of the policies of the Government shall be exempt from restrictions under this section; and</p> <p>d. nothing in this section shall prejudice the right of any civil servant to hold office in, or be a member of, any association, group or professional body, the purposes of which are principally to represent their member's interests in relation to the terms and conditions of employment or the general carrying on of any profession or trade or the promotion of any interest, not pertaining directly to the promotion of a political party, or its campaign or philosophy.</p> | <p>Cabinet Committee responsible for public sector Reforms to oversee performance of the civil service.</p> <p>3. The constitution provides for the public appointment committee is responsible for performance monitoring of Independence of appointments and decision making from political or other undue influence.</p> | <p>measures, incentives, and sanctions</p> <p>3. The Malawi constitution S193</p> <p>3. No Government or political party shall cause any civil servant acting in that behalf to exercise functions, powers or duties for the purposes of promoting or undermining the interest or affairs of any political party or individual member of that party, nor shall any civil servant acting in that behalf promote or undermine any political party or member of that party, save as is consistent with the provisions in this section.</p> <p>4. No government or political party shall cause any civil servant, acting in that behalf to deploy resources, whether they be financial, material or human resources, for the purposes of promoting or undermining any political party or member of a political party or interest group, nor shall any civil servant acting in that behalf cause such deployment, save as prescribed by this Constitution or an Act of Parliament consistent with the provisions of subsection (1).</p> <p>5. Any civil servant who contravenes this section shall be subject to such disciplinary measures as the Civil Service Commission considers</p> |
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| | | | <p>appropriate, taking into account the gravity and circumstances of the contravention, subject to such regulations as may be prescribed by an Act of Parliament.</p> <p>6. Where the Civil Service Commission is satisfied that a government or political party or member of a political party has acted in contravention of subsection (3) or subsection (4), the Civil Service Commission may initiate proceedings before the High Court for punitive damages and, in the case of a contravention of subsection (4), the recovery of such resources or sums equivalent to the benefit of the enjoyment of those resources from the government or political party or member of a political party who has so benefitted, as the case may be.</p> |
| <p>Public services Act 1994 Water Works Act 1995 The Malawi Constitution</p> | <p>Water Resources Act 2013</p> | <p>Water Works Act 1995 The Malawi Constitution The Malawi Public Sector Reforms Policy for 2018 to 2022</p> | <p>Water Works Act 1995 Public Service Act 1994 The Malawi Constitution</p> |