# Water sector accountability review Malawi

#### Water Supply and Sanitation

Annex 1 and 2

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# **Annex 1: Water Supply**

### Planning

#### Ensuring legislation, regulations and policy support delivery of national targets,

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
Water Works Act 1995 An Act to	The national water policy 2005	The national water policy 2005	Sections 8 and 66 of the
provide for the establishment of	Ch 9 states that the ministry	outlines a plan how to monitor if	Constitution of Malawi gives
Water Boards water-areas and for	responsible for water affairs	the policy is being adhered to.	Parliament a core mandate in
the administration of such water-	will be responsible for this	The Ministry responsible for	oversight, legislation and
areas for the development,	function. This will require an	Water Affairs will be the lead	representation. In carrying out its
operation and maintenance of	integrated approach involving	institution to undertake the	legislative, representative and
waterworks and water-borne	(NWRA) as it provides the roles	monitoring and evaluation's	oversight functions, the Malawi
sewerage sanitation systems in	and duties under this function.	activities of the implementation	Parliament has 19 committees
Malawi and for matters incidental		plan of the policy with the view	comprising of elected Members of
thereto or connected therewith	In terms of the delegation of	of assessing whether the	Parliament (MPs) from different
	powe <b>r, the water resources act</b>	objectives and outputs are	political parties. These committees
The Malawi National Water Policy	<b>2013</b> Ch 1 states the	being realized.	are appointed in order to respond
2005 through Ch 3 and 9 provides			to, consider, inquire into, and deal

guidance and policy direction in	Ministry responsible for water	S 8.1 Monitor and evaluate the	with emerging legislative and public
achieving sustainable and equitably	affairs is the overall arching	performance of the	policy decisions.
accessible water resource by all. The	overseer in the formulation of	implementation plan of the	
policy provides specific policy goal	legislation and policy aspect.	policy with the view of assessing	
for;		whether the objectives and	
S 3.2.3 Urban, Peri-Urban and	The water works act 1995 and	outputs are being realized.	The water resources act 2013 CH 12
Market Centres Water Services	the water resources act both	8.2.1 Develop procedures for	outlines the establishment of the
To achieve sustainable, commercially	complement that the ministry	monitoring and evaluation of	water tribunal to conduct hearings
viable provision of water supply and	is the overarching overseer of	the policy implementation;	(appeals and complaint) relating to
sanitation services	legislation as well as	8.2.2 Undertake periodical	water supply and use.
that are equitably accessible to and	responsible for all water	reviews of the specific	S 64 (8) Any person aggrieved by the
used by individuals and	related works. However, these	programmes of the	decision of the Authority under
entrepreneurs in urban, peri-urban	are directly managed by the	implementation plan; and	subsection (6) may appeal to the
and market centers for socio-	designated water board(s) in	8.2.3 Conduct participatory	Water Tribunal against the decision,
economic development at affordable	each area.	consultative meetings with the	if the decision was made without his
cost.		relevant stakeholders in order	consent.
3.2.4 Rural Water Services		to assess the impact of the	S 72 (2) (a) the person may, within
To achieve sustainable provision of		programme	three months after the notice given
community owned and managed		9.1.2 Monitor (in terms of	by the Authority, appeal to the
water supply and		quality and quantity), assess,	Water Tribunal; and
sanitation services that are equitably		plan, develop, conserve,	(b) if, at the expiration of that
accessible to and used by individuals		allocate and protect water	period, no such appeal has been

and entrepreneurs in rural	resources for utilisation in the	made or, after hearing the appeal,
communities for socio-economic	social and economic sectors of	the Water Tribunal does not
development at affordable cost.	production and services;	make an order restraining it from
		doing so, the Authority may
However, there is a gap in the	The Water Resources Act	proceed as if such consent had been
provisions as there are no water	S 10 provides as a function the	given.
supply regulations for the sector, this	national water resources	The act also ( <i>d</i> ) monitors and
is despite that the water resources	authority - (b) to monitor, and	enforces conditions attached to
regulation does provide for	from time to time reassess, the	permits for water use;
regulations for water abstraction and	National Water Policy and the	
use of water by water suppliers	National Water Resources	
within a particular area but they are	Master Plan;	
not definitive to water supplying.		
The water resource regulation 2018		
does provide some regulatory		
provisions. Its states that S 8. Any		
person who intends or undertakes		
any activities relating to water, which		
under the Act require a licence, shall		
obtain a licence or a permit, as the		
case may be, from the Authority to		

undertake the activity. S 6 (4) A
person who fails to comply with an
order by the Authority under
this regulation may be liable to have
his licence or permit suspended
cancelled, or varied.
16{ I) A person who wishes to
construct, own, or control any works
for licence which-
( a) uses a motorized water pump,
whether temporarily or
permanently, to pump water from a
borehole or waterway;
(b) is a weir, dam, tank or other work
capable of diverting or impounding
an inflow of more than I 00 cubic
meters in any period of twenty-four
hours, shall apply to the Authority for
a licence.
(2) An application referred to in
subregulation (1) shall-

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(a) be in the form specified in the
Second Schedule except that (i) Form
Al shall be used for surface water
licence; and
(ii) Form B 1 shall be used for ground
water licence;
(b) be accompanied by the fee
specified in the Twenty Third
Schedule;
(c) in the case of an application
relating to exploratory borehole, be
accompanied by a borehole
completion report specified in the
Seventh Schedule; and
(a) in the case of all other
applications, be made before any
works referred to in subregulation (I)
are constructed.
(3) The applicant shall describe the
intended purpose for which the
application is made.

(4) The Authority may, depending on
the description of the intended
purpose, require a Technical Report
in the format contained in the
Seventeenth Schedule hereto.
(5) The Authority may-
(a) require an applicant to prepare
and submit plans or other
information to support the
application made under this
regulation;
(b) by itself or through a person duly
authorized by the Authority
enter any land and carry out any
investigations that are necessary to
enable the Authority to process the
application;
(c) after the provisions of this
regulation are complied with, grant
the licence on such conditions as are
necessary.

(6) A separate application for water
resource use shall be made to the
Authority with respect to the
following criteria-
(a) each abstraction point, whether
from surface or groundwater;
(b) each effluent discharge point
unless covered under another
application; (c) each point of storage
unless covered under another
application;
(d) separate activities other than
those covered in paragraph (a}, (b)
and (c}.
19(1) The Authority shall submit a
copy of every water use
application to the relevant registered
water users association, where one
exists in the area, for comments.
(2) Water users association shall
submit any comments on a water
use. application to the Authority

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within thirty days ofreceipt of the
application by the association.
(3) The Authority may proceed to
determine any application after the
expiry of the period of time for the
water users association to comment
on the application.
20{ 1) The Authority shall cause to
be published quarterly at least in
one national newspaper of wide
circulation and in the Government
Gazette, a list of all the licence
applications.
(2) The Authority shall cause to be
displayed a notice of all applications
received, within a particular region,
at the District Commissioner's, chief's
and the Authority's regional offices at
the end of each month.
(3) The Authority shall cause to be
displayed at the Catchment

Management Board's Office a notice			
of all applications received by the			
Authority, within each Catchment			
Management Board, at the end of			
each week.			
(4) The public notification shall state			
the name of the applicant, the water			
resource for which the application			
has been made, the quantity and			
purpose for which the application			
has been made, the land registration			
number and any additional details			
that the Authority may consider			
relevant to the public with respect to			
the licence application.			
Water Works Act 1995	National Water Policy 2005	National Water Policy 2005	The Malawi Constitution
National Water Policy 2005	Water Resource Act 2013	Water Resource Act 2013	Water Resource Act 2013
Water Resource Regulation 2018	Water Works Act 1995		

### Assessing service levels, and current and future demand.

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
The national water policy 2005	The water resource act 2013 S 8	The water resource act 2013	the Ombudsman Act No. 10 of
caters for the delivery of this	states that the authority known	provides for the NWRA to	1996 to ensure that all public
function S 3.3.2 Ensure the existence	as the national water resource	submit reports to the Minister	institutions work effectively,
of strategic and contingency water	authority will be established	responsible for Water affairs.	efficiently, and that they adhere
resources development and	and it will effectively and	S 23provides that	to democratic principles of
management plans that guarantee	efficiently manage the	_(1)As soon as practicable, but	openness, fairness,
availability of water in cases of	country's water resources using	not later than six months after	responsiveness, and
droughts, floods and population	IWRM approach.	the expiry of each financial	accountability.
pressures;	S 35 (2) The National Water	year, the Authority shall	
3.3.3 Ensure that all persons have	Resources Master Plan shall,	submit to the Minister a report	<b>It also</b> provides oversight by
convenient access to sufficient	among other things, address	concerning its activities during	providing a public
quantities of water of acceptable	matters relating to	that financial year.	complaints/inquiry systems
quality and the associated water-	(a) a water balance for each	(2) The report referred to in	aimed at protecting the public
related public health and sanitation	catchment area that compares	subsection (1) shall be in such	against administrative injustice
services at any time and within	forecasted water demand with	form as the Minister shall	and ensuring adherence to
convenient distance;	data and information regarding	approve and shall include	quality service delivery within
	water availability;	information on the financial	the public sector

3.4.5 Management, conservation,	(b) proposed options for	affairs of the Authority, and	
protection and development of	meeting forecasted demand for	there shall be appended to the	
water resources shall be undertaken	each catchment area in which	Report.	
in an integrated manner;	forecasted water demands	For the National Water	
3.4.6 Water resources shall be	exceeds available supply, which	Resources Master Plan, the	
optimally, equitably and rationally	options may include	WRA 2013 outlines that;	
allocated and regulated in a	(i) water demand management	(3) The Minister shall submit	
transparent and accountable	programmes;	the National Water Resources	
manner to ensure sustainable,	(ii) necessary infrastructure	Master Plan recommended to	
optimal economic returns and social	construction;	him under subsection (1) to	
enhancement;		the Cabinet with his	
3.4.10 Water demand management		recommendations within	
approaches shall be adopted in all		twenty-one days of receiving	
cases of water resources		it.	
development and management, and		(4) The detailed components	
water allocations shall consider		of the National Water	
ecosystem integrity and bio-diversity		Resources Master Plan and	
including marine and estuarine life;		procedures for its preparation,	
3.4.11 The protection and use of		revision and	
water resources for domestic water		recommendations to and	
supply shall be accorded the highest		consideration by the Minister	
priority over other uses;		may be as prescribed by the	

	Minister, and if the Minister	
Water Resources Act 2013 caters for	does not prescribe, as may be	
the management of water resources	determined by the Authority.	
in the aspect of meeting forecasted		
demand. The act provides for	The National Water Policy	
development of the National Water	2005 Ch8 outlines the Ministry	
Resources Master Plan by the	responsible for Water Affairs	
National Water Resources Authority.	will monitor and evaluate the	
The Water Resources Act 2013	performance of the	
provides in S35 for the generation of	implementation plan of the	
a National Water Resources Master	policy with the view of	
Plan to help in the planning of future	assessing whether the	
water supply.	objectives and outputs are	
S 35.(2) The National Water	being realized.	
Resources Master Plan shall, among	9.1.2 Monitor (in terms of	
other	quality and quantity), assess,	
things, address matters relating to	plan, develop, conserve,	
(a) a water balance for each	allocate and protect water	
catchment area that compares	resources for utilisation in the	
forecasted water demand with data	social and economic sectors of	
and information regarding water	production and services;	
availability.		

(b) proposed options for meeting	9.1.8 Establish standards,
forecasted demand for each	guidelines and inspectorate;
catchment area in which forecasted	
water demands exceeds available	
supply, which options may include	
(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;	
The water resource regulation 2018	
does not directly talk about assessing	
service levels, current and future	
demands but Ch 9 provides a basis	
for water supply security planning	
and helping to balance the need for	
water with the people's demands.	

For National Water Policy 2005	Water Resource Act 2013	water Resource Act 2013	Ombudsman Act No 10 of 1996
Water Resource Act 2013		National Water Policy 2005	
Water Resource Regulation 2018			

### Planning future supply requirements

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The Water Resources Act 2013 provides in S35 for the generation of a National Water Resources Master Plan to help in the planning of future water supply.	The national water policy 2005 Ch 9.1 assigns the ministry responsible for water affairs as the lead authority in dealing with planning and sanitation	The national water policy 2005 Ch 8 states that the Ministry responsible for Water Affairs	the Ombudsman Act No. 10 of 1996 to ensure that all public institutions work effectively, efficiently, and that they adhere to democratic principles
S 35.(2) The National Water Resources Master Plan shall, among other things, address matters relating to	measures. 9.1.2 Monitor (in terms of quality and quantity), assess, plan, develop, conserve,	will be the lead institution to undertake the monitoring and evaluation of activities that	of openness, fairness, responsiveness, and accountability.
(a) a water balance for each catchment area that compares forecasted water demand with data and information regarding water	allocate and protect water resources for utilisation in the social and economic sectors of production and services;	are set out in the implementation plan of this policy, which include planning	The act also provides oversight by providing a public complaints/inquiry systems aimed at
availability. (b) proposed options for meeting forecasted demand for each	9.1.4 Invest in sectoral planning, development and construction of water	for water supply. <b>The Water Resources Act</b> 2013 gives monitoring power	protecting the public against administrative injustice and ensuring adherence to quality

catchment area in which forecasted	infrastructure, including multi-	to the Minister Responsible	service	delivery	within	the	public
water demands exceeds available	purpose dams;	for Water Affairs in regards to	sector				
supply, which options may include	The Water Resources Act 2013	the National Water Resources					
(i)water demand management	S35 assigns the National	Master Plan which the NWRA					
programmes;	Water Resources Authority as						
(ii) necessary infrastructure	the responsible authority for to development of the	must submit and adhere to					
construction;	National Water Resources	reporting.					
(iii) any other measure, including	Master Plan which, among	(3) The Minister shall submit					
appropriate legal reforms	other things, address matters	the National Water Resources					
considered necessary in achieving	relating to-	Master Plan recommended to					
the objectives of the National Water Resources Master Plan;	a) a water balance for	him under subsection (1) to					
Resources Master Plan,	each catchment area that						
The water works act S11 to S	compares forecasted water	the Cabinet with his					
provides for the purpose of the	demand with data and	recommendations within					
boards. This act provides for	information regarding water availability;	twenty-one days of receiving					
11. The Board may make, construct		it.					
and maintain all such works as are	b) proposed options for	(4) The detailed components					
necessary and convenient for the	meeting forecasted demand for each catchment area in						
	which forecasted water	of the National Water					
purpose of creating, maintaining and	demands exceeds available	Resources Master Plan and					
extending waterworks works for	supply, which options may	procedures for its					
supplying water for domestic, public	include-	preparation, revision and					
and business purposes, for the	i. Water demand management	recommendations to and					
extinction of destructive fires, for	programmes;	consideration by the Minister					
cleansing streets, lanes, gutters and							
		may be as prescribed by the					

sewers, and for all other purposes to	ii. Necessary infrastructure	Minister, and if the Minister	
	construction;		
which water and waterworks are	,	does not prescribe, as may be	
supplied or are applicable.		determined by the Authority	
	the NWP and WRA contradict each other on who is		
The national water policy 2005 Ch	responsible for overall guide on planning for water supply		
1.3 Guides the water sector in the			
management and development of its			
water resources using the IWRM			
principles, improving the			
institutional and legal framework,			
ensuring sustainable delivery of			
water supply and sanitation services,			
effective involvement of the private			
sector, protection of the			
environment and conformity with			
the regional and international			
conventions and agreements in the			
management of shared water			
resources.			
Water Resource Act 2013	National Water Policy 2005	National water Policy 2005	Ombudsman Act No 10 of 1996
Water Works Act 1995	Water Resource Act 2013	Water Resource Act 2013	

National Water Policy 2005		

## Financing

### Financing of water infrastructure

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The Water Works Act 1995	The water works Act states that	The National Water Policy	The water work act 1995
part vII outlines financial provisions	the water boards are	2005 states that the Ministry	S 7 The Board shall cause proper
on revenue for the Water Boards to	responsible for mobilising	responsible for Water Affairs	records to be kept of all its
fulfil water works	financial resources to be	will be the lead institution to	proceedings and kindred matters.
37(1) The annual revenue of the	invested in water works within	lead on assessing water	S 44(1) The Board shall cause a true
Board shall include-	their areas.	sector financing through	account to be kept of all its financial
(a) income from all rates levied and	Water works act assigns the	monitoring and evaluation of	transactions during each financial
all charges made, by the Board;	following role to the board	the policy plan	year. (2) The Board may keep such
(b) one half of all fines imposed by a	S 11. The Board may make,	implementation process.	capital, renewals and other special
competent court for the	construct and maintain all such	S 8.2.1 Developing	accounts as it may consider necessary
contravention either of this Act or of	works as are necessary and	procedures for monitoring	or as the Minister may direct. (3) All
by-laws made by the Board;	convenient for the purpose of	and evaluation of the policy	the accounts of the Board shall be
	creating, maintaining and	implementation.	open to inspection by any member of

(c) all other fees, dues or rents	extending waterworks for	the Board. S 45 The accounts of the
recoverable by the Board;	supplying water for domestic,	Board shall be audited from time to
(d) all sums received by the Board	public and business purposes,	time by an auditor appointed by the
from the Government on revenue	for the extinction of destructive	Board. 46(1) The auditor may, by
account; and	fires, for cleansing streets,	writing under his hand, require the
(e) interest on moneys invested by	lanes, gutters and sewers, and	production of all books, deeds,
the Board.	for all other purposes to which	contracts, vouchers, receipts and
In addition, the Act provides for	water and waterworks are	other documents relating to the
Boards to request for Advances and	supplied or are applicable.	accounts or investments of the Board
access loans		which he may deem necessary for the
S 41. It shall be lawful for the Board		purpose of the audit. He may summon
from time to time to obtain from	For rural water services the	in writing all such persons as he may
the Government from the advances	National Water policy provides	think proper to appear before him
of money required for the proper	this function as the	personally at the offices of the Board
carrying out of this Act. The money	responsibility of the Ministry	at a time to be fixed in such summons,
so Government advanced and the	responsible for water affairs is	for examination in connexion with any
interest thereon, if any, shall	the lead agency in financing the	documents or matter relating to the
constitute a liability of the Board	water infrastructures with	audit. (2) For the purpose of any such
and shall be charged on the	support from Local government	examination, the auditor may take
property and annual revenues of	under local councils	evidence upon oath. The auditor is
the Board, present and future,	S 9.1.4 stipulates the need to	hereby empowered to administer
subject however to the provisions of	Invest in sectoral planning,	oaths for such purpose. (3) Any person

any agreement or other	development and construction	who without just cause fails or refuses
arrangement existing at the	of water infrastructure,	to produce any document the
commencement of this Act.	including multi-purpose dams;	production of which has been duly
S 42 provides the Boards with	Nonetheless the National Water	required by the auditor, or who having
borrowing powers(1) Subject to	Policy also outlines the	been so summoned - (a) without just
the provisions of the Finance and	institutional roles and linkages	cause, neglects or refuses to comply
Audit Act, it shall be lawful for the	of key water sector	with the summons; (b) having
powers Board from time to time to	stakeholders in supporting	appeared before the auditor, refuses
raise loans, whether by way of bank	investment in water and	without just cause to be examined on
overdraft or otherwise, in such	sanitation infrastructure(s). For	oath or to take such oath; (c) having
amounts and on such conditions as	instance, the non-governmental	taken such oath, refuses without just
may be approved by the Minister	organization and civil society S	cause to answer such questions
for the proper carrying out of this	.10.2 Encourage communities	pertaining to the audit as are put to
Act, and such loans may, subject to	to manage their water supply	him, shall be guilty of an offence and
the provisions of any agreement or	systems, community dams and	be liable to a penalty of K500 for every
other arrangement existing at the	catchment protection;	such refusal or neglect and, in default
commencement of this Act, be	9.10.3 Participate in the	of payment, such person shall be liable
secured on the property and annual	provision and investment in	to imprisonment for three months;
revenues of the Board, including	rural water supplies and	Provided that no conviction under this
any lands which may be specially	community dam development	section shall be taken to exempt the
placed at the disposal of the Board	consistent with the prevailing	person convicted from liability to do or
under any law;		perform the act, matter or thing

	Government policies and	required of him under this section. 47.
The National Water Policy 2005	guidelines on such investments;	After completion of the audit of the
provides for the provision of Rural	9.10.4 Assist in mobilization and	accounts of the Board, the auditor
Water Supply services. The policy	securing funding for rural and	shall report thereon in writing both
sets out goal 3.2.4 for Rural Water	low income communities for	generally and on any specific matters
Services which aims to achieve	water and sanitation projects;	as the Minister may direct. The auditor
sustainable provision of community		shall send a copy of such report to the
owned and managed water supply		Board and the Board shall consider the
and sanitation services that are		report within two months after
equitably accessible to and used by		receipt thereof, whereupon a copy of
individuals and entrepreneurs in		the auditor's report together with the
rural communities for socio-		Board's comments thereon shall be
economic development at		sent by the Board to the Minister.
affordable cost.		48(1) If on receipt of the report of
		the auditor, the Minister is satisfied
4.2.5 Promoting local resources		that an expenditure has been incurred
mobilisation and project financing		without proper authority, he may, by
that supplement and complement		order in writing, surcharge any person
public investments in water		responsible for such expenditure for
resources management and		the whole or any part thereof. (2) If,
development;		on receipt of the report of the auditor,
		the Minister is satisfied that - (a) any

failure to collect money due to the
Board; (b) any loss of money or
property; (c) any damage to property;
has occurred by reason of any willful
or wrongful act or any negligence by a
member of the Board or person in its
service, the Minister may, by order in
writing, surcharge such member or
person for the whole or any part of
any money or property due to the
Board.
The Public Finance Management Act
2003 PART X provides for Disciplining
of Controlling Officers and Chief
Executives in certain circumstances
and Offences S 88( I ) A person
commits an offence who
(a) in connection with an inspection or
inquiry under this Act refuses, or
without reasonable excuse fails, to

	attand at a time and place required of
	attend at a time and place required of
	him by the Secretary to the Treasury;
	(b) refuses to produce any records in
	his possession when required to do so
	under this Act;
	(c) refuses or neglects to pay any
	public money or trust money into the
	account or fund into which it is
	payable;
	(d) refuses to provide reports under
	this Act;
	(c) intentionally or recklessly over-
	commits or overspends funds under
	his control or expends funds where
	there is no appropriation permitting
	such expenditure;

	(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;
	(g) does any act or omission for the
	purpose of procuring for that person
	or for any other person or
	organization-
	(i) the improper payment of public
	money or trust money; or
	(ii) the improper use of public
	resources; or
	(h) wilfully fails to meet any obligation
	imposed on him under this Act.
	Obligation to report under the public
	finance management act

			(2) A person who commits an offence
			under subsection (I) is liable on
			conviction to a fine of KI00,000 and to
			imprisonment for five years or where
			the person is a statutory body to a fine
			of K500,000.
			890) 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.
			(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.
Water Works Act 1995	Water Works Act 1995	National Water Policy 2005	Water Works Act 1995
National Water Policy 2005			Public Finance Management Act 2003

### Setting and reviewing of fees and charges

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and
			sanctions
The water works act 1995 stipulates	The national water policy 2005	The national water policy	The national water policy 2005 outlines
that	gives responsibility on	2005 mandates the ministry	the processes relating to tariff
S 35(1) The Board shall make such	delivering this function to the	responsible for water affairs	management S 9.3.5 Implement
charges as are approved, within a	ministry responsible for water	as the overarching institution	investment programmes, tariffs and
reasonable time, by the Minister for	affairs with support from water	to perform monitoring of all	compensations related to the
the supply of quantities of water	utilities	waterworks activities CH 8.	development and management of
measured by meter, for the rental	S 9.1.9 Develop and regulate		water supply and water borne
of meters, or for the provision of	water utilities in terms of tariffs	The water works act 1995	sanitation facilities and services;
other services. Such charges may	and financing; and S 9.3.5	states that all board accounts	
differ in respect of different classes	Implement investment	shall be open to monitoring	the Ombudsman Act No. 10 of 1996 ${ m to}$
of consumers.	programmes, tariffs and	by an assigned auditor from S	ensure that all public institutions work
(2) Such charges shall be levied and	compensations related to the	44 to S 48 making sure this	effectively, efficiently, and that they
enforced in accordance with rules	development and management	function is operating	adhere to democratic principles of
made by the Minister. (3) Such rules	of water supply and water	adequately.	openness, fairness, responsiveness,
may provide for - (a) different rates	borne sanitation facilities and		and accountability.
being fixed and levied in respect of	services;		

different classes of premises or			The office of the Ombudsman provides
parts thereof; (b) rates to be	The water works act 1995 CH 7		oversight by providing a public
increased in response to price	states that the board is		complaints/inquiry systems aimed at
inflation. (4) A schedule showing	responsible for setting fees and		protecting the public against
the tariff of rates and charges	charges under the supervision		administrative injustice and ensuring
payable to the Board shall be	of the minister responsible for		adherence to quality service delivery
available for inspection at the	water affairs.		within the public sector
offices of the Board and shall be			
advertised in such other manner as			
the Minister may, on the advice of			
the Board, prescribe.			
36. All rates and charges levied and			
made under this part shall, as from			
the date they fall due, be deemed			
to be a charge upon the premises to			
which they relate and shall be			
recoverable from the occupier, and			
if he fails to pay, from the owner of			
the premises or any subsequent			
owner or occupier or the agent of			
any such owner or occupier.			
Water Works Act 1995	National Water Policy 2005	National Water Policy 2005	National Water Policy 2005

Water Works Act 1995	Water Works Act 1995	Ombudsman Act No 10 of 1996
		Office of the Ombudsman

### Collecting of fees and charges

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and
			sanctions
The national water policy 2005	The national water policy 2005	The national water policy	The water resource act 2013 allows
states that the Malawi Government	mandates the national water	2005 S 119 states that (4) The	querying in S 19 (2) The Authority shall
has instituted water resources	resources authority	Authority shall submit yearly	keep proper books of accounts and
conservation and protection	S 9.2.3 Determine and collect	to the Minister an audited	other records relating thereto in
measures to address some of the	fees related to water	statement of accounts under	respect of its funds and shall in every
challenges in the sector S 4.2.8	abstractions and discharges;	this section.	respect comply with the provisions of
Developing and instituting demand	The water resource act 2013	As a means of assisting the	the Public Finance Management Act.
management instruments for water	compliments the function of	authority, the association of	(3) The accounts of the Authority shall
user fees and other related charges;	NWRA with supervision from	water users is obligated S 131	be examined and audited annually by
S 5.2.9 to Developing and instituting	the minister S <b>19</b> (1) The	(e) to collect water user	auditors appointed by the Authority
instruments for determining water	funds of the Authority shall	charges and fees on behalf of	and approved by the Minister.
quality data fees and other related	consist of( <i>a</i> ) such sums as	the Authority;	S 20(1) Without prejudice to the
charges;	may be appropriated by		provisions of the Public Finance

	Parliament for the purposes of	The water resource act 2013	Management Act, the Authority shall
The water resources act 2013	the Authority; (b) any fees,	has an objective for	retain in a fund managed by it all of the
complements the national water	charges, etc., payable under	monitoring water resources S	revenue from water use charges
policy S 10 $(g)$ in accordance with	this Act; (c) such other moneys	<b>18</b> (1) The Authority shall	payable under a permit, to be applied
guidelines in the National Water	and assets as may vest in or	provide for a national	by the Authority in meeting costs
Policy, to determine charges to be	accrue to the Authority in the	monitoring and information	incurred in the performance of its
imposed for the use of water from	course of its functions;	system on water resources.	functions.
any water resource;	S <b>119.</b> (1) The Minister may,	(4) Regulations made under	(2) Without prejudice to the generality
	on the recommendation of the	this Act may specify	of subsection (1), funds
The water resource regulation 2018	Authority, by notice published	requirements for the keeping	retained by the Authority under that
provides for setting up procedures	in the <i>Gazette,</i> prescribe	of records and the furnishing	subsection may be applied for the
for the authority to use on fees,	charges for	of information to the	payment of compensation payable by
charges and penalties on water	(a) services provided by the	Authority.	the Authority under this Act, whether
abstracted, diverted, obstructed or	Minister, the Authority, a public	(5) On payment of the	or not the payment is subsequently
used including energy derived from	authority or authorized person	prescribed fee, any member	recoverable from a permit holder or
a water resource at the appropriate	under this Act;	of the public	other person.
rate as set out in the Twenty Third	(b) the abstraction and use of	(a) shall have access to	
Schedule S 117. (2) A person in	water under a licence granted	information contained in any	The water resource regulation 2018
possession of consent to discharge	under this Act;	national information system;	allows for appeals, reporting and
effluent or who is	(c) the discharge of effluents	and	complaints procedure S 119 (6) Where
required to have a permit to	under a discharge permit		the licensee and the Authority fail to
discharge effluent shall pay to the	granted under this Act; or		agree on the assessment of the

Authority fees pertaining to the	(d) any other licence or permit	(b) shall be supplied with a	quantity of water used, the opinion of
discharge of effluent on the basis of	granted under this Act. (2) The	copy of the Authority's	the Authority shall prevail and any
the volume of effluent being	water abstraction charges	annual report.	payment due shall be made.
discharged at the appropriate rate	determined by the Minister		(7) If, after payment under
as set out in the Twenty Third	shall be based on a pricing		subregulation (6), the licensee is
Schedule.	strategy that takes into		dissatisfied with the Authority's
(3) The Minister, on the advice of	consideration		assessment, he may appeal against the
the Authority may review the fees	(a) the need to differentiate		assessment in accordance with section
and charges from time to time.	among geographical areas,		142 of the Act.
(4) A licensee or permit holder may	categories of water uses and		120{I) Where the Authority discovers
with the permission of the	water users;		that a licensee, a person who is
Authority, make payment to the	(b) the need to achieve an		required to have a licence or permit
Authority by monthly instalments.	equitable and efficient		holder, who is obliged to pay water use
118. In reviewing the water and	allocation of water and water		charges from the coming into force of
effluent charges, the Minister shall	conservation;		these Regulations and who has not
take into account- water and	(c) the need to adhere to sound		done so, then it shall be entitled to
effluent	water management practices		charge an-ears, for a period not
(a) inflation rate; charges	based on the "user pays" and		exceeding twelve. (12) months. (2)
(b) cost of managing the water	the "polluter pays" principles;		Where the Authority discovers that a
resources and water catchment	and		licensee or permit holder, has under-
areas;	(d) the need to provide for		declared his water use, from the
	incentives for timely payment		coming into force of these Regulations,

(c) the use of water charges as a	of the charges and disincentives	then it shall require the licensee to pay
tool for water demand	for non-payment of same.	for the under declared water use in
management;	<b>120</b> (1) The Authority shall	arrears.
(d) the use of water as a social and	levy and collect charges and	121. An additional five percent (5%)
economic good; and	fees prescribed under section	shall be added to the water use
(e) any other criterion that the	119 (1) and it shall deposit the	charges for any water abstraction or
Authority may consider	proceeds from the collection	diversion within a groundwater
appropriate.	thereof into a separate account	conservation area, water area or
	owned and operated by the	protected area under the Act to cover
The water works act 1995 provides	Authority.	for the cost of greater management
in S 34. The rates levied by the		required for such areas.
Board shall be an annual levy in	The water works act 1995 gives	122. Where the water abstracted
respect of any premises or part	power to the board to set and	exceeds the permitted amounts by
thereof and may take the form of a	collect charges S 8 (5) The Board	over five percent (5%), the excess shall
fixed sum, a sum calculated by	may make rules, subject to the	be charged at a penalty rate as
reference to area or a sum	approval of the Minister, for the	prescribed under Twenty Third
calculated by reference to value	payment of moneys out of the	Schedule.
and may be levied in respect of	revenue of the Board to such	123(1) Any person in possession of a
developed or undeveloped land	funds and for the contribution	licence who has created and
and irrespective of whether there is	of moneys to superannuation	uses flood water storage facilities shall
a supply of water to the premises.	or provident funds by such	be entitled to a discount on water use
	officers and servants.	charges.

35(1) The Board shall make such		(2) The value of the discount shall be a
charges as are approved, within a		maximum of ten percent in the
reasonable time, by the Minister for		case of storage that equals or exceeds
the supply of quantities of water		ninety times the daily water demand
measured by meter, for the rental		and shall otherwise be calculated on a
of meters, or for the provision of		pro rata basis.
other services. Such charges may		124. Where the assessment of the
differ in respect of different classes		water used is not based on continuous
of consumers. (2) Such charges		measurement by means of a calibrated
shall be levied and enforced in		and appropriately sealed flow
accordance with rules made by the		measuring device, then a penalty of ten
Minister. (3) Such rules may provide		percent shall be charged 011 the full
for - (a) different rates being fixed		amount of water used.
and levied in respect of different		The regulation under FORM U has a list
classes of premises or parts		of all the fees, charges and penalties.
thereof; (b) rates to be increased in		
response to price inflation. (4) A		The water works act 1995 provide
schedule showing the tariff of rates		under S 43 the Minister may make rules
and charges payable to the Board		prescribing the manner in which the
shall be available for inspection at		Board shall make and submit estimates
the offices of the Board and shall be		of its revenue and expenditure or
advertised in such other manner as		revenue and accounts capital accounts,

the Minister may, on the advice of			provided for the submission by the
the Board, prescribe. 36. All rates			Board of annual statements of account,
and charges levied and made under			and prescribing the financial year in
this part shall, as from the date they			respect of which estimates shall be
fall due, be deemed to be a charge			made and accounts submitted. As a
upon the premises to which they			means to hold the board accountable
relate and shall be recoverable			an auditor appointed by the board to
from the occupier, and if he fails to			audit the boards account from time to
pay, from the owner of the			time from S 45 to 48.
premises or any subsequent owner			
or occupier or the agent of any such			
owner or occupier.			
National Water Policy 2005	National Water Policy 2005	National Water Policy 2005	Water Resource Act 2013
Water Resource Act 2013	Water Works Act 1995	Water Resource Act 2013	Water Resource Regulation 2018
Water Resource Regulation 2018			Water Works Act 1995
Water Works Act 1995			

## **Regulatory oversight**

#### Monitoring and regulatory oversight to ensure safe management of water

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The water resource regulation 2018	The national water policy 2005	The national water policy 2005	The water resource act 2013
regulates the registration of existing	gives lead to the ministry	Ch 8.0 mandates the Ministry	mandates the establishment of a
rights, licencing of water	responsible for water affairs S	responsible for Water Affairs	water tribunal to adjudicate upon
abstraction and use, surface water	9.1.1 Provide policy direction	as the lead institution to	directives and appeals lodged against
management, development and	and coordinate water sector	undertake the monitoring and	decision made in the management of
administration, groundwater	programmes; 9.1.2 Monitor (in	evaluation's activities of the	water resources Ch 12.
management, development and	terms of quality and quantity),	implementation plan of this	The act also allows for appeals relating
administration, water quality	assess, plan, develop, conserve,	policy.	to any aggrieved person. S <b>142</b> (1)
management and pollution control	allocate and protect water		Except as otherwise provided under
and the conservation of riparian	resources for utilisation in the	The water resources act 2013	this Act, any person aggrieved by a
and catchment areas	social and economic sectors of	S 8 states that the authority	decision of the Authority, authorized
to ensure safe, efficient and	production and services; 9.1.7	shall be governed by a	person or public authority made
		governing board which shall	under this Part of the Act may, within

environmentally sound	Undertake policy formulation	consist members appointed by	one month, appeal to the Minister in a
management of water.	reviews, and enforcement;	the minister to oversee the	prescribed manner.
It also states S 4(1) These	9.1.8 Establish standards,	functionality of the authority.	(2) A person who fails, without
Regulations shall apply to all	guidelines and inspectorate;		reasonable cause or neglected to
policies, plans, programmes, and	Nonetheless, coordination of all		exercise his right of objection under
activities that are subject to the Act.	relevant stakeholders in the		this Act, shall not have a right
(2) These Regulations shall apply to	sector helps guide the ministry		to appeal under subsection (1).
all water resources, waterworks	in carrying out its duties under		(3) Where a person is still aggrieved
and water bodies in Malawi	this function. S 9.2.1 Co-		with the decision of the Minister, he
including lakes, streams and rivers,	ordinate and harmonize the		may appeal to the Water Tribunal.
whether perennial or seasonal, and	activities of Catchment		
aquifers.	Management Authorities and		
S 8. Any person who intends or	all other		The water resource regulation 2018
undertakes any activities relating to	stakeholders;		allows for reporting and complaints
water, which under the Act require	9.3.6 Monitor water quality		procedure (2) The order under this
a licence, shall obtain a licence or a	within the water supply		regulation shall specify the measures
permit, as the case may be, from	systems and promote		that need to be taken, the period of
the Authority to undertake the	catchment management and		time for compliance with the order,
activity.	pollution control; 9.6.1		and any other conditions pertaining to
	Promote collaboration with		the compliance of the order.
The water works act 1995	NWRA so that good watershed		(3) Any person who has been served
	management and catchment		with an order under this regulation by

Ch II 6. The Board shall, except for	protection practices are	the Authority and fails to comply
rural water supply areas, have the	followed in controlled areas	within the period specified in the
control and administration of all	and along river banks; 9.6.4	order commits an offence.
waterworks and all the water in	Promote and regulate irrigation	(4) A person who fails to comply with
such waterworks and the	development and practices to	an order by the Authority under this
management of the supply and	ensure poverty reduction,	regulation may be liable to have his
distribution of such water in	efficient utilization of water and	licence or permit suspended
accordance with this Act.	prevention of pollution and	cancelled, or varied.
Ch IX S 56 (1) (b) the regulation of	water related diseases in	
the use and the prevention of	irrigation fields; 9.7.8 Enforce	The water works act 1995 states that
pollution, misuse, waste of, or any	pieces of legislation and	the board will be subjective to
interference with, any water	implement policies on natural	investigation 49. (1) If the Minister has
supplied by or under the control of	resources management; 9.8.3	reasonable cause to suspect that – (a)
the Board;	Monitor and provide guidance	the Board has failed to observe or
(I) the prohibition and regulation of	concerning the quality of	perform any of the duties or
the entry of any person into any	drinking water; 9.10.10 Ensure	obligations conferred or imposed
waterworks occupied by or under	compliance with national	upon it by this or any other Act; (b) the
the control of the Board;	policies and regulations	Board has done or performed any act,
(n) the regulation of bathing or	governing water and sanitation	matter or thing without due authority,
washing any person, animal or thing	activities, including registration	he may in his discretion, appoint a
in any water under the control of	with the Ministry responsible	person or persons to inquire into such
the Board.	for Water and Sanitation and	matter. (2) The Commissions of

Ch XII (2) Any subsidiary legislation	other relevant authorities.	Inquiry Act shall apply to any inquiry
made under the Acts repealed by	9.12.1 Ministries responsible	under this Part, provided that for the
subsection (1) in force immediately	for Commerce, Industry,	purposes of an inquiry under this Part,
before the commencement of this	Science and Technology shall	those powers vested by the
Act- (a) shall, unless in conflict with	regulate the development and	Commissions of Inquiry Act in the
this Act, continue in force and be	operations of industries and	Minister responsible for the
deemed to be subsidiary legislation	trade that can contribute to	administration of that Act shall be
made under this Act; (b) may be	over-exploitation and pollution	deemed to be vested in the Minister
replaced, amended or repealed by	of public waters, through	responsible for the administration of
subsidiary legislation made under	conditional licensing of	this Act. (3) If, upon an inquiry under
this Act. (3) Any agreement or	industries and trading	this Part, the Minister is satisfied that
similar arrangement made	operations;	the Board has done or suffered any of
pursuant to the provisions of the		the acts, matters or things referred to
Acts repealed by subsection (1)		in subsection (1) (a) or (b), he may by
shall continue in force until	The water resources act 2013	order in writing, require the Board to
terminated in accordance with the	gives this responsibility to the	remedy the same within such time as
terms and conditions thereof.	NWRA under the direction of a	he may appoint. (4) If the Board fails
	governing board S 8 (3).	to comply with an order of the
The national water policy 2005	<b>10</b> (1) The Authority shall	Minister made under subsection (3),
provides guidance on the delivery	have the following powers and	the Minister may, in addition to any
of safe management of water S	functions ( <i>a</i> ) to develop	other powers conferred on by this Act
5.2.7 Developing and enforcing	principles, guidelines and	– (a) suspend the exercise by the

regulations regarding water	procedures for the allocation of	Board of any of the powers conferred
pollution control;	water resources;	upon it by this or any other Act for
5.2.8 Developing skills, technologies	(b) to monitor, and from time to	such period as he may think fit; (b)
and techniques in water quality	time reassess, the National	remove from office all or any of the
monitoring and pollution control in	Water Policy and the National	members and, in his discretion,
the Ministry responsible for Water	Water Resources Master Plan;	appoint new members; and during
Affairs, institutions responsible for	(e) to regulate and protect	such period, or as the case may be,
standards, and other institutions	water resources quality from	pending the appointment of new
involved in water and	adverse impacts;	members, confer upon any person the
environmental sanitation activities;	(i) to liaise with the relevant	exercise of any powers so suspended
5.2.11 Monitoring and regulating	stakeholders for the better	or of the members.
private laboratories involved in the	regulation and management of	Ch ix S (2) The by-laws made under
provision of water quality and	water resources;	this Act may provide for a penalty for
pollution control services;	(/) to coordinate the	the breach of any of their provisions -
5.2.12 Facilitating development of	preparation, implementation	(a) upon first conviction, of a fine of up
self-monitoring systems by all	and amendment of a water	to Kl,000 or imprisonment for up to
service providers and operators;	action plan and to recommend	one month; (b) on a subsequent
	the water action	conviction, of a fine of up to K2,000 or
6.1.2.8 Strengthening and	plan to the Minister;	imprisonment for up to three months;
supporting Water Utilities through		and (c) in the case of a continuing
establishment of effective	The water resource regulation	offence, of a fine of up to K200 in
	2018 assigns the NWRA to be	

institutional and governance	responsible S 92. Upon		respect of each day on which the
arrangements, and major	inspection and approval of the		offence continues.
infrastructure developments;	authorized effluent discharge		
	works, the Authority shall issue		
	a water effluent discharge		
	permit and shall		
	append the necessary		
	conditions including limits to		
	and monitoring frequency		
	for volume and quality of		
	effluent discharge. 100{I) The		
	Authority shall inspect and		
	sample any sources of water		
	pollution.		
Water Resource Regulation 2018	National Water Policy 2005	National Water Policy 2005	water Resource Act 2013
Water Works Act 1995	Water Resource Act 2013	Water Resource Act 2013	Water Resource Regulation 2018
National Water Policy 2005	Water Resource Regulation		Water Works Act 1995
	2018		

## Licensing

## Licensing, registration and record-keeping of water supply infrastructure and activities

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The water resource act 2013	The water works act 1995 S 64	The water resource act 2013	The water resource act 2013 CH 12
S 17(1) The Authority may	states that the minister shall	states that the authority shall	states that a water tribunal will be
require any class or type of persons,	have jurisdiction under this	be governed by a governing	established to arbitrate upon
or the person on whom notice is	function with advice from the	board which shall consist	directives and appeals lodged against
served, as the case may be, to	water board.	members appointed by the	decision made on the supply of water.
(a) keep and maintain records; (b)		minister to oversee the	The act also allows for S <b>51</b> (1)
install, operate and maintain		functionality of the authority	Subject to section 52, where the
equipment;	The water resource act 2013	in carrying out all its activities	Authority is of the opinion that in
(2) Anything required to be done by	mandates the authority under	S 8. S <b>18</b> (1) The Authority	order to make water available for a
a regulation made or a notice	the supervision of the minister S	shall provide for a national	public purpose it is necessary to
given under subsection (1) shall be	10 (h) to gather and maintain	monitoring and information	cancel or vary a licence, the Authority
done at the expense of the	information on water resources	system on water resources.	may cancel or vary the licence.
	and from time to time to publish		

person to whom the notice or	forecasts, projections and	(2) The system shall provide	(3) The Authority shall pay
regulation applies, unless the	information on water resources;	for	compensation to any licensee whose
Authority otherwise determines.	S <b>41</b> (1) The Authority shall	(a) the collection and	licence has been cancelled pursuant
(3) A person who contravenes or	take the following matters into	management of data and	to this section.
fails to comply with or causes or	consideration in determining	information regarding water	52. Where it is established that, for
allows any person to contravene or	whether or not to issue a	resources and their	any reason beyond the reasonable
fail to comply with this section,	licence	management; and	control of the Authority, the natural
commits an offence.	(a) whether or not the proposed	(b) procedures for gathering	flow in a watercourse available to all
S 19 (2) The Authority shall keep	abstraction and use of water are	data and the analysis and	users has dropped or is likely to drop
proper books of accounts and other	consistent with	dissemination of information	so that more water is permitted to be
records relating thereto in respect	(i) the objectives referred to in	on water resources.	diverted, stored, or used than is
of its funds and shall in every	section 4 and the National	(3) For the purposes of the	available in the watercourse, the
respect comply with the provisions	Water Policy;	system established under	Authority shall hold a public hearing
of the Public Finance	(ii) the National Water Resources	this section, the Authority	into the matter and thereafter may
Management Act.	Master Plan; and	may, by order require any	amend any or all licences to divert,
S 37 (2) Any water resource	(iii) any reservation of water	person, within a reasonable	store, or use water from that
reserved under subsection (1) shall	made under section 37;	time or on a regular basis, to	watercourse in an equitable and fair
be taken into account in	(b) the impact of the proposed	provide it with specified	manner as the Authority may deem
(a) the licensing of water	abstraction upon existing water	information, documents,	appropriate.
abstractions under section 39;	users, water resources and the	samples or materials.	
<b>38.</b> (1) Subject to subsection (4), a	water reserved or allocated		The ombudsman Act No 10 of 1996
person having lawful access	for environmental uses;		monitors public service delivery,

thereto may abstract water from a		(5) On payment of the	negligence i.e. failure in keeping
water resource for domestic use		prescribed fee, any member	records of those institutions
without obtaining a licence from	The national water policy 2005	of the public	governing the water supply sector.
the Authority under this Part.	mandates this function to the	( <i>a</i> ) shall have access to	
<b>39.</b> (1) No person shall abstract	NWRA S 9.2.8 Issue water	information contained in any	The water resource regulation 2018 S
and use water unless authorized	abstraction and discharge	national information system;	169 states that the governing body of
to do so under this Part.	licences. However this function is	and	the authority may after stating both
(2) A licence under this Part shall be	complemented by stakeholder	(b) shall be supplied with a	the justification and time limits, order
required for any of the	engagement in the sector S 9.3.7	copy of the Authority's	in writing that any provision of such
following purposes	Collect, process, analyse and	annual report.	extent and subject to such special
(a) the abstraction, impoundment	disseminate relevant data and		conditions as it may deem reasonable
and use of water from a water	information to all stakeholders		under the circumstances.
resource;	within the water sector;		The act also conditions that S 20{ 1)
<b>40</b> (1)Aperson wishing to			The Authority shall cause to be
abstract and use water shall apply			published quarterly at least in one
to the Authority in the prescribed			national newspaper of wide
form for a licence and the			circulation and in the Government
application shall contain the			Gazette, a
following information			list of all the licence applications.
( <i>a</i> ) the name of the applicant;			(2) The Authority shall cause to be
(b) the water resource from which			displayed a notice of all applications
the proposed abstraction will			

be made;		received, within a particular region, at
(c) the proposed location of the		the District Commissioner's, chief's
abstraction;		and the Authority's regional offices at
(d) the type and location of the		the end of each month.
proposed beneficial use;		(3) The Authority shall cause to be
(e) the names of owner or occupier		displayed at the Catchment
of the land upon which the		Management Board's Office a notice
proposed beneficial use will be		of all applications received by the
made;		Authority, within each Catchment
(f) the proposed rate and volume of		Management Board, at the end of
the abstraction;		each week.
(g) the proposed timing of the		(4) The public notification shall state
abstraction;		the name of the applicant, the water
(h) a description of any waterworks		resource for which the application has
necessary to accomplish the		been made, the quantity and purpose
proposed abstraction and put the		for which the application has been
abstracted water to beneficial use		made, the land registration number
and a proposed schedule for the		and any additional details that the
completion of such waterworks;		Authority may consider relevant to
(i) description of the proposed		the public with respect to the licence
treatment, if any, that will be		application.

given to the abstracted water,		170{1) The Authority shall cause to
including any chemicals proposed		be displayed on the notice board, at its
to be applied to the water; (5) The		offices and at the offices of the District
application for a licence to abstract		Commissioner of the relevant district,
and use water shall be		a list of notifications on licences,
accompanied by		permits and cancellations, within their
(a) the prescribed charge; and		respective jurisdiction.
(b) where applicable, an		(2) The list displayed pursuant to
environmental impact analysis of		subregulation (1) shall include a
the proposed abstraction of water		summary of the information
upon the environment and existing		pertaining to the water activity.
water users and water resources.		(3) Any person who wishes to obtain
(6) The Authority may, after taking		full details of a particular licence or
into consideration any objection		permit shall apply to the Authority in
that may be raised and after		writing and pay the required fee as
consultation with any person or		specified in the Twenty Third
public authority as it may see fit,		Schedule.
grant a licence to the applicant.		
(7) A grant of a licence under this		
Part shall not imply representation		
or guarantee by the Authority,		The water works act 1995 S 62. in any
authorized person or public		proceedings under this Act, a

authority that water is or will be		document certified by clerk to the
available in the place and at the		Board as Proof of the a copy of a
times indicated in the licence.		resolution or order passed or made by
<b>41</b> (1) The Authority shall take		the Board or as a copy of the
the following matters into		documents appointment or of any
consideration in determining		authority given to an officer of the
whether or not to issue a licence		Board shall be evidence that the
(a) whether or not the proposed		solution, order, appointment or
abstraction and use of water are		authority was duly passed, given or
consistent with		made by the Board.
(i) the objectives referred to in		The water works act states that the
section 4 and the National		board will be subjective to
Water Policy;		investigation 49. (1) If the Minister has
(ii) the National Water Resources		reasonable cause to suspect that – (a)
Master Plan; and		the Board has failed to observe or
(iii) any reservation of water made		perform any of the duties or
under section 37;		obligations conferred or imposed
(b) the impact of the proposed		upon it by this or any other Act; (b) the
abstraction upon existing water		Board has done or performed any act,
users, water resources and the		matter or thing without due authority,
water reserved or allocated for		he may in his discretion, appoint a
environmental uses; (3) A licence		person or persons to inquire into such

shall, subject to this Act, remain in		matter. (2) The Commissions of
force for the period specified in it,		Inquiry Act shall apply to any inquiry
and may be renewed from time to		under this Part, provided that for the
time on application by the licensee,		purposes of an inquiry under this Part,
which shall be filed no less than six		those powers vested by the
months before the due expiration		Commissions of Inquiry Act in the
date of the licence.		Minister responsible for the
<b>46</b> (1) The Authority may, if in its		administration of that Act shall be
opinion exceptional circumstances		deemed to be vested in the Minister
warrant such action, grant a		responsible for the administration of
temporary licence authorizing,		this Act. (3) If, upon an inquiry under
unconditionally or subject to		this Part, the Minister is satisfied that
conditions, the use of water from a		the Board has done or suffered any of
water resource and construction of		the acts, matters or things referred to
the works required therefor,		in subsection (1) (a) or (b), he may by
without subjecting the application		order in writing, require the Board to
to public consultation.		remedy the same within such time as
(2) In considering whether or not to		he may appoint. (4) If the Board fails
grant a licence in accordance		to comply with an order of the
with this section, the Authority shall		Minister made under subsection (3),
have regard to the extent to		the Minister may, in addition to any
		other powers conferred on by this Act

which the grant of such a licence		– (a) suspend the exercise by the
would be likely to interfere with		Board of any of the powers conferred
the domestic requirements of other		upon it by this or any other Act for
users.		such period as he may think fit; (b)
(3) A licence granted in accordance		remove from office all or any of the
with this section shall not be		members and, in his discretion,
granted or renewed so as to be in		appoint new members; and during
force for a period exceeding, or for		such period, or as the case may be,
periods which in the aggregate		pending the appointment of new
exceed, one year. 47. Where under		members, confer upon any person the
section 40 (1) (h) a licence includes		exercise of any powers so suspended
an authorization to construct		or of the members.
necessary works, the licensee shall		
not commence operations under		
the licence unless and until the		
relevant works have been inspected		
and cleared by the Authority.		
48. A licensee shall inform the		
Authority of any change in the		
location of use of the water allowed		
to be abstracted under a licence,		
including in particular upon the		

Γ	subdivision of the land on which the
	water is used, or for the benefit of
	which the water is used.
	<b>50</b> (1) The Authority may cancel a
	licence where the licensee
	has
	(a) failed to comply with any
	express or implied condition to
	which the licence is subject;
	(b) taken or used more water than
	he is entitled to take in any period;
	(c) taken or used water for a
	purpose other than that for which
	he is entitled;
	(d) failed to comply with any
	provision of this Act; or
	(e) not made full beneficial use of
	the licence within the two
	preceding years.
	(2) No licence shall be cancelled
	under this section unless notice

ſ	of the proposed cancellation has
	been served on the licensee and the
	licensee has been given a
	_
	reasonable opportunity to show
	cause to the Authority as to why the
	licence should not be cancelled.
	(3) No compensation shall be
	payable to any licensee whose
	licence has been cancelled pursuant
	to this section.
	55(1) A licensee may lease his
	licence to another person for a
	period not exceeding six months,
	after giving thirty days' notice to
	the Authority.
	(2) A licensee may only lease his
	licence to another person for a
	period longer than the period
	referred to in subsection (1) if such
	lease is approved by the Authority.
	(3) An application for approval of
	the leasing of a licence under
	5

subsection (2) shall be submitted to
the Authority for consideration
in accordance with subsection (4).
68 (7) Unless otherwise exempted,
a person constructing a borehole
shall keep a record of the progress
of the work, which shall include
(a) measurements of the strata
passed through and the specimen
of such strata;
(b) measurements of the levels at
which water was struck; and
(c) measurements of the quantity of
water obtained at each
level, the quantity finally obtained
and the rest level of the water.
<b>69.</b> A person constructing or
drilling a borehole, if required to
keep records under this Part, shall,
within one month of the cessation
of the construction, send to the
Authority

(a) a complete copy of the record,
together with the specimens
referred to in the record; and
(b) particulars of any test made,
before such cessation of the
construction, of the yield of water,
specifying
(i) the rate of flow throughout the
test and the duration of the
test; and
(ii) where practicable, the water
levels during the test and
thereafter until the water has
returned to its natural level;
(c) a statement of whether, in his
opinion (as determined by
tasting) the water is suitable for
drinking or is highly mineralized,
as the case may be; and
(d) if required by the Authority,
such water samples as it may

consider necessary. <b>72.</b> _(1)A
person constructing or drilling a
borehole or the owner or occupier
of the land on which construction
takes place may give notice to the
Authority requesting that
(a) any copy of, or extract from, the
record required to be kept
under this Act; or (b) any specimen
taken or any other particulars
connected with the borehole, be
treated confidentially.
(2) In response to such a notice, the
Authority shall, if sufficient
cause has been shown, thereupon
not allow such copy, extract,
specimen or other particulars,
except in so far as it contains or
affords information as to water
resources or supplies, to be
published or shown to any person
other than a member of the

Authority without the consent of
the person giving the notice:
84(1) No person shall engage in
the trade of drilling or construction
of boreholes unless the person is
licensed as a borehole driller or a
borehole constructor in accordance
with the provisions of subsection
(2).
<b>114.</b> (1) The owner of a dam with
a safety risk shall register that
dam with the Authority.
(2) An application for registration
shall be made within one hundred
and twenty days <b>117.</b> (1) The
Minister may make regulations
regarding dam safety including(f)
requiring the registration of a
specific dam with a safety risk, and
setting out the procedure and the
processing fee payable for
registration; <b>133.</b> _(1) Upon

approval by the Authority of the
constitution prepared under
section 132, the association shall be
registered in the Register
maintained by the Authority in
accordance with section 134.
(2) With effect from the date of
registration in the Register, all
water users within the area of an
association as defined in the
constitution shall be required to
become members of the
association and shall be bound by
the constitution. <b>134.</b> (1) The
Authority shall establish and
maintain a Register in which it shall
record the particulars of
associations registered with the
Authority.
(2) The Authority may determine
additional particulars of

associations registered with the
Authority to be included in the
Register.
(3) Information contained in the
Register shall be accessible by
the public on payment of
prescribed fee. <b>136</b> (3) Upon
disestablishment of an association
of water users, the Authority shall
enter a corresponding record in the
Register it keeps under section 134,
and on the abstraction licence or on
the effluent discharge permit of
each member, issued in accordance
with Parts V
and VIII of this Act, respectively.
S 157 (2) Without prejudice to the
generality of subsection (1), such
regulations may make provision for
or with respect to(f) provide for
the registration of existing users of
water and structures;

The water resource regulation 201
S 16{ I) A person who wishes to
construct, own, or control an
works which-
( a) uses a motorized water pump
whether temporarily o
permanently, to pump water from
borehole or waterway;
(b) is a weir, dam, tank or othe
work capable of diverting o
impounding an inflow of more that
I 00 cubic meters in any period c
twenty-four hours, shall apply to
the Authority for a licence.
(2) An application referred to in
subregulation (1) shall-
(a) be in the form specified in the
Second Schedule except that (
Form Al shall be used for surface
water licence; and

(ii) Form B 1 shall be used for
ground water licence;
(b) be accompanied by the fee
specified in the Twenty Third
Schedule;
(c) in the case of an application
relating to exploratory borehole, be
accompanied by a borehole
completion report specified in the
Seventh Schedule; and
(a) in the case of all other
applications, be made before any
works referred to in subregulation
(I) are constructed.
(3) The applicant shall describe the
intended purpose for which the
application is made.
(4) The Authority may, depending
on the description of the intended
purpose, require a Technical Report
in the format contained in the
Seventeenth Schedule hereto.

(5) The Authority may-
(a) require an applicant to prepare
and submit plans or other
information to support the
application made under this
regulation;
(b) by itself or through a person duly
authorized by the Authority enter
any land and carry out any
investigations that are necessary to
enable the Authority to process the
application;
(c) after the provisions of this
regulation are complied with, grant
the licence on such conditions as
are necessary. 17(1) The
Authority may require an applicant
for a licence, at the applicant's cost,
to advertise the application for a
licence in such manner as the
Authority may in writing specify.
21(1) Any person may object in

writing to the Authority stating
grounds for the objection, to the
grant of any licence application.
(2) The objection shall be lodged
with the Authority, and copied to
the association, within thirty days of
the public notification of the licence
application.
(4) The Authority shall notify the
person objecting in writing, within
twenty-one days of its decision with
respect to the application.
25( 1) The Authority may grant a
water licence in the forms specified
in the Third Schedule,
(a) Form Cl shall be used for surface
water licence; and
(b) Form C2 shall be used for
groundwater licence.
(2) In addition to the conditions
specified in section 43 of the Act,
the Authority may attach any or all

of the following conditions to a
licence-
(a) the licence shall be granted
subject to such conditions as are
relevant to the specified particular
types of uses dete1mined by the
Authority;
(b) conditions relating to the
standard of-(i) construction;
(ii) dimension;
(iii) any other feature of the works;
and
(iv) any associated works;
(c) conditions relating to the future
maintenance and operation of the
works and any associated works
and the date on which operation of
these works may commence;
(d) the date of commencement of
work on the works and the notice
required to be given of that
commencement;

26(1) Once the application for a		
water use licence has been		
approved to construct by the		
Authority, the Authority shall issue		
an authorization to construct		
works.		
(2) The authorization issued under		
subregulation (1) shall provide the		
commitment by the Authority to		
issue a valid water use licence if the		
conditions stated on the		
authorization are fulfilled. 27. A		
licence shall not be regarded as		
allowing the applicant to		
commence abstraction or the		
proposed use of the water until the		
conditions governing the licence		
are certified as having been met.		
28(1) Where a holder of a licence		
or an authorization fails to		
complete the works within the time		
limited by the licence or an		

authorization, then a Progress
Report shall be submitted to the
Authority in lieu of a Completion
Certificate and the holder may
apply for an extension of time to
the Authority, which may be
granted on such terms as the
Authority may specify.
(2) Notwithstanding the generality
of subregulation (1), the Authority
may extend the period of a licence
or authorization subject to
subregulation
(3), for a period not exceeding
twelve months after the initial
licence period.
30(1) An applicant for licence shall
be required to pay fees for the
licence validity period, as contained
in the Twenty Third Schedule
before a valid licence is issued.

33( I) The Authority may vary or
cancel a licence as provided for in
sections 50 or 52 of the Act.
(2) A licensee shall respond within
thirty days of receipt of a
notification for cancellation or
variation, showing cause to the
Authority as to why the licence
should not be varied or cancelled.
(3) In order to give effect to the
cancellation or variation of any
licence, the Authority may take any
appropriate measures for
enforcement including the
confiscation of equipment or plant,
or removal of works and any costs
incurred by the Authority in
effecting these measures shall be a
cost recoverable from the licensee.
34. A holder of licence under the
Act shall not be allowed to use the
licence as a defence to any civil

action or to a criminal prosecution
under any legal action under the Act
or any other written law to which
the licence does not authorize the
holder. 41{1) A licensee may, at
least ninety days before the expiry
of the licence, apply to the
Authority for the renewal of the
licence.
(2) An application under
subregulation (1) shall-
(a) be made in a form and manner
determined in writing by the
Authority;
(b) contain such information as the
Authority may specify;
{c) be accompanied by the fee
specified in the Twenty Third
Schedule.
(4) Where the Authority is satisfied
with the application for renewal, it
shall renew the licence on such

terms and conditions as the
Authority shall determine.
(5) The Authority shall inspect the
works before processing the
application for renewal.
(6) The Authority may impose new
or alter existing licence conditions
as necessary in response to causes
as stated in section 52 of the Act.
(7) Where the licensee does not
apply for the renewal of the licence,
the Authority shall, on expiry of the
licence, initiate cancellation in
accordance with section 50 of the
Act. 167( 1) The Authority shall
maintain a database for purposes of
water
resource management.
(2) The database shall contain data
on climate, surface water,
groundwater, water quality,
catchment conditions, abstractions,

licences, permits, water use and
any other data relevant to the
management of the water
resources.
The national water policy S 3.4.7
Water regulation shall be based on
reliable continuous data collection,
management, and
analysis to ensure accurate
assessment of water resources and
dissemination of
information for effective planning
of water resources development;
3.4.15 All water facilities shall be
registered using a numbering
system developed and adopted
by the Ministry responsible for
Water Affairs. The information shall
be digitized; 4.2.10 Designing and
implementing an appropriate water

resources assessment methodology			
including establishment of a			
computerized networked database;			
4.2.11 Instituting mechanism for			
water users to submit prescribed			
water resources data to the			
appropriate authorities in			
accordance with the existing			
legislation; 5.2.4 Establishing an			
effective and user-friendly water			
quality database compatible with			
GIS and establishment and			
maintenance of water quality and			
pollution control network systems;			
Water Resource Act 2013	Water Works Act 1995	Water Resource Act 2013	Water Resource Act 2013
Water Resource Regulation 2018	Water Resource Act 2013		The Ombudsman Act No 10 of 1996
National Water Policy 2005	National Water Policy 2005		Water Resource Regulation 2018
			Water Works Act 1995

## Social and environmental impact assessment and safeguarding.

Rules, processes and standards	Responsibilities and	c. Performance monitoring	d. Corrective measures, incentives, and
	duties		sanctions

National Water Policy 2005	The structural	The Environment Management Act	Guidelines for Environmental Impact
states that	framework indicates	provides for Environmental	Assessment (EIA) in Malawi provides
3.4.18 All major water projects	that EIA process is	monitoring.	for:
should undergo Environmental	managed by the		A.6 Fees
Impact Assessment (EIA).	Director of	S32(1) The Authority shall, in	S-29. The Minister may, by notice
	Environmental Affairs	consultation with such lead agency as it	published in the Gazette, prescribe such
The Environment Management	(DEA), Environmental	may consider appropriate, carry out or	fees as may be necessary for covering
Act 2017 provides for:	Affairs Department	cause to be carried out periodic	reasonable costs for scrutinising
Environmental and Social Impact	(EAD)	environmental audits of any project for	environmental impact
Assessment Monitoring and		purposes of enforcing the provisions of	assessment reports and for the
Auditing	Guidelines for	this Act.	subsequent monitoring of a project
	Environmental Impact		which has been approved for
S31{I) The Minister	Assessment (EIA) in	(2) The owner of the premises or	implementation under this Act.
responsible for Environmental	Malawi outline the	operator of a project for which an	
Affairs may, on the	following roles and	Environmental and Social Impact	A.7 Offences Relating to Environmental
recommendation of the	responsibilities	Assessment has been made shall keep	Impact Assessment
Authority, specify, by notice		records and make annual reports to the	S-63. Any person who contravenes
published in the Gazette, the	2.3.1 Environmental	Authority describing how far the project	Section 24(3) or fails to prepare an
type and	Affairs Department	conforms in operation with the	environmental impact assessment
size of a project which shall not	(EAD)	statements made, in the Environmental	report or knowingly gives false
be implemented unless an		and Social Impact	information in an environmental impact
Environmental and Social Impact	2.3.1.1 Facilitating the	Assessment.	assessment report contrary to section
Assessment is carried out.	EIA process	(3) A developer shall take all reasonable	25 shall be guilty of an offence and be
	2.3.1.2 Ensuring	measures for mitigating any undesirable	liable, upon conviction, to a fine of not
(2) A person shall not undertake	compliance with EIA	effects on the environment arising from	less than K5, 000 and not exceeding
any project for which an	provisions in the EMA	the implementation of a project which	K200,000 and to imprisonment for two
Environmental and Social Impact	2.3.1.3 Managing the	could not reasonably be foreseen	years.
Assessment is required without	production and	in the process of conducting an	A.8 Closure of premises
the written approval of the	updating of guidelines	Environmental and Social Impact	S.76. (1) Where the Director believes, on
Authority, and except in	on EIA practice and	Assessment and shall, within a	reasonable grounds, that this Act or any
accordance with any conditions	procedures	reasonable time, report to 'the	regulations made hereunder have been
imposed in that approval.	2.3.1.4 Assisting line	Authority' on the effects and measures	contravened, the Director may, subject
	agencies in the	taken.	to subsection (2), order the closure of

(3) Any other licensing authority	preparation of sector-	(4) An inspector may enter any land or	any premises by means of, or in relation
shall not grant a permit or	specific guidelines on	premises for the purpose	to which the Director reasonably
licence for the execution of a	EIA	of determining how far the activities	believes the contravention was
project referred to in subsection	practice and	carried out on that land or	committed.
(1) unless an approval for the	procedures	premises conform to the statements	(2) The closure of any premises shall
project is granted by the	2.3.1.5 Updating the	made in the Environmental and	cease after the provisions of this Act or
Authority, or the grant of the	list of prescribed	Social Impact Assessment.	any regulations made hereunder have
permit or licence is made	projects		been instituted in respect of the
conditional upon the approval of	2.3.1.6 Secretariat to	33( I) The Authority shall, in	contravention, in which event the
the Authority being granted.	the TCE	consultation with any lead agency,	premises shall remain closed until the
	2.3.1.7 Maintaining a	monitor-	proceedings are finally concluded.
(4) The Minister may, on the	register of projects	(a) all environmental phenomena with a	
advice of the Authority, make	being appraised under	view to making an	
regulations for the effective	the EIA process	assessment of any possible changes in	
administration of Strategic	2.3.1.8 Maintaining a	the environment and their possible	
Environmental Assessment,	central library of EIA	impacts; and (b) the operation of any	
Environmental and Social	reports	industry, project or activity with a view	
Impact	2.3.1.9 Maintaining a	to determining its immediate and long-	
Assessment and Environmental	directory of local,	term effects on the environment.	
Audit.	regional and	(2) The Authority shall require a	
	international	developer whose project requires an	
The National Environmental	consultants capable	Environmental and Social Impact	
Policy 2004 sets an objective to	of carrying out EIA	Assessment licence to prepare and	
1. Develop,	studies. Criteria used	submit to the Authority, environmental	
regularly review and	in selecting the	management plans in a form and	
administer	consultants will be	manner prescribed by the Authority.	
guidelines for	outlined at the	(3) An inspector may enter upon any	
Environmental	beginning of the	land or premises for the purpose of	
Impact Assessment	directory.	monitoring the. effects on the	
(EIA), audits,		environment of any.	
monitoring, and	2.3.2 Technical	activities carried out on that land or	
evaluation so that	Committee on the	premises and to enforce compliance	
adverse	Environment (TCE)		

a na vina n na ant-l			
environmental	2221 Evolu-th	with the environmental mitigation and	
impacts can be	2.3.2.1 Evaluating	management	
eliminated or	Project Briefs, EIA	plans prescribed under subsection {2).	
mitigated and	terms-of-reference		
environmental	and EIA reports	Guidelines for Environmental Impact	
benefits enhanced.	2.3.2.2 Developing	Assessment (EIA) in Malawi indicates	
	project approval	that:	
Guidelines for Environmental	terms and conditions	Managing Compliance with EIA Results	
Impact Assessment (EIA) in	2.3.2.3 Reviewing and	Compliance with the terms and	
Malawi outlines the EIA	monitoring project	conditions of project approvals under	
process.	auditing programmes	the EMA is managed through project	
	2.3.2.4	audits developed by the TCE and	
Screening;	Recommending	approved by the Director.	
A process of determining what	courses of action to		
projects should be subject to EIA	the Director.		
requirements	Reporting to NCE		
Scoping;	2.3.5 National		
Establishes the principal issues	Economic Council		
to be addressed in an EIA. This is	(NEC)		
performed by a			
project preparation team	2.3.5.1 Determining if		
comprising of the developer and	public-sector projects		
a multi-disciplinary team of	are prescribed under		
experts. The team should ensure	the EMA and referring		
that there is public participation	PSDs to the Director of		
in the EIA process.	Environmental Affairs		
	2.3.5.2 Assisting the		
EIA study	EAD and TCE in		
Five major stages and the report	updating the list of		
1 Identification-What will	prescribed projects		
happen as a result of the	(e.g.		
project?			

2 Prediction-What will be the	adding or deleting	
extent of the change brought	project types,	
about by the project?	establishing size	
3 Evaluation and Interpretation -	thresholds for project	
Do the changes matter?	referral	
4 Mitigation-What can be done	to the Director)	
about the changes?	2.3.5.3 Participating	
5 Monitoring and Management-	on the TCE	
What are the monitoring and	2.3.5.4 Working with	
management plans?	the EAD and TCE to	
6 Report How can decision-	develop and	
makers be informed of -what	streamline their	
needs to be done, given the	working	
various alternatives?	relationship on EIA	
	activities	
	2.3.6 Sectoral/Line	
	Ministries	
	2.3.6.1 Ensuring that	
	their own projects	
	prescribed under the	
	EMA adhere to the	
	EIA	
	requirements	
	2.3.6.2 Ensuring that	
	private-sector	
	projects over which	
	they have jurisdiction	
	adhere	
	to the EIA	
	requirements	

	2.3.6.3 Participating	
	on the TCE	
	2.3.6.4 Providing	
i	information and	
i	advice to project	
	developers	
	2.3.6.5 Advising	
	project developers on	
1	regulations and	
1	monitoring	
	requirements related	
1	to licensing their	
	projects	
	2.3.6.6 Incorporating	
	DEA approval terms	
	and conditions in	
	project licences	
	2.3.6.7 Ensuring that	
	project licensing	
1	terms and conditions	
	are met, including	
	those	
	specified by the	
	Director of	
	Environmental Affairs	
	2.3.7 Malawi	
	Investment	
	Promotion Agency	
	(MIPA)/Chamber of	
	Commerce/Local	
	Authorities	

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	
2.3.8 Local Training	
Institutions	
2.3.8.1 Developing	
and executing short	
term training	
programmes on EIA	
2.3.8.2 Institutionalise	
environmental	
education	
2.3.9 Non-	
Governmental	
Organisations	
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 2.3.10 Project Developers 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	
2.3.10 Project Developers 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	
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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	
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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	
2.3.11 Public	
2.3.11.1 Contributing	
information and	
advice to EIA studies	
2.3.11.2 Commenting	
on the content of EIA	
reports	

2.3.11.3 Advising	
project developers	
and the DEA/TCE on	
practical approaches	
for avoiding,	
minimising or	
compensating for	
adverse	
environmental	
impacts	
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.	
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		
The National Water Policy 2005	National	Environmental Management Act 2004	Guidelines for Environmental Impact
Environmental Management	Environmental Policy	Guidelines for Environmental Impact	Assessment (EIA) in Malawi document
Act2017	2004	Assessment (EIA) in Malawi document	
National Environmental Policy	Guidelines for		
2004	Environmental Impact		
Guidelines for Environmental	Assessment (EIA) in		
Impact Assessment (EIA) in	Malawi document		
Malawi document	The National Water		
	Policy 2005		

# Compliance

Enforcement of regulations regarding safe management of water

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions

The water resource act 2013	The water resource act 2013	The water resources act 2013	The water resource act 2013
S <b>4.</b> The objectives of the Act are	mandates this function to the	S 8 states that the authority	mandates the establishment of a
( <i>a</i> ) to promote the rational	NWRA.	shall be governed by a	water tribunal to adjudicate upon
management and use of the water	S 10(1) The Authority shall	governing board which shall	directives and appeals lodged against
resources of Malawi through (i)	have the following powers and	consist members appointed	decision made in the management of
the progressive introduction and	functions	by the minister to oversee	water resources Ch 12.
application of appropriate	( <i>e</i> ) to regulate and protect water	the functionality of the	The act also allows for appeals relating
standards and techniques for the	resources quality from adverse	authority.	to any aggrieved person. S 142(1)
investigation, use, control,	impacts; (i) to liaise with the		Except as otherwise provided under
protection, management and	relevant stakeholders for the		this Act, any person aggrieved by a
administration of water resources;	better regulation and	The national water policy CH	decision of the Authority, authorized
(ii) the regulation of all public and	management of water	8.0 states that Monitoring	person or public authority made
private activities which may	resources; (m) at the request of	and evaluation of the Water	under this Part of the Act may, within
influence the quality, quantity,	the Minister, advise any other	Policy implementation plan	one month, appeal to the Minister in a
distribution, use or management of	Minister who may request advice	which incorporates	prescribed manner.
water resources; (iii) the	on	enforcement of regulation	(2) A person who fails, without
coordination, allocation and	(i) issues of policy relevant to the	on safe management of	reasonable cause or neglected to
delegation of responsibilities	investigation, use, control,	water	exercise his right of objection under
among Ministers and public	protection, management or		this Act, shall not have a right
authorities for the investigation,	administration of water; or		to appeal under subsection (1).
use, control, protection,	(ii) any other issue that may be		
management or administration	referred to it;		

of water resources;	(n) whether on request or	(3) Where a person is still aggrieved
<b>117</b> (1) The Minister may make	otherwise, to review the law	with the decision of the Minister, he
regulations regarding dam safety	relating to water and advise the	may appeal to the Water Tribunal.
including	Minister on any amendments	
(a) the establishment of a register	that may be required for the	S 144 (14) Any person who refuses or
of approved professional	improvement or better	fails to submit himself to the
persons for dealing with dams with	administration of that law;	jurisdiction of a catchment
a safety risk;		management committee by refusing,
(b) the provision of technical audit	S <b>15.</b> (1) The Minister may, in	failing or neglecting to comply with
of the work of approved	writing, delegate to the	directions, rules, regulations, by-laws
professional persons;	Authority any of his powers or	or guidelines of the catchment
(c) classifying dams into categories;	functions under this Act other	management committee commits an
(d) standard specifications	than	offence and shall be liable to an
regarding the construction,	(a) the powers conferred by this	administrative penalty.
maintenance and repair of dams;	section;	S 147(1) Any person convicted of
(e) requiring the owner of a dam	(b) the power to make	an offence under this Act, or under
with a safety risk to accomplish	regulations; and	any regulations or rules made under
regular monitoring of the dam, to	( <i>c</i> ) the power to determine	this Act for which no other penalty is
the extent and in the manner	appeals.	provided shall be liable to a fine of one
prescribed; (f) requiring the		million Kwacha (K1,000,000) and to
registration of a specific dam with a		four (4) years imprisonment and
safety risk, and setting out the		where the person continues the

procedure and the processing fee		contravention, shall be liable to a fine
payable for registration;		of five thousand Kwacha (K5,000) for
(g) requiring an approved		every day during which the offence
professional person appointed for a		continues.
specific purpose for a specific dam		<b>148.</b> (1) If the Authority is satisfied
to submit information,		on reasonable grounds that a person
drawings, reports and manuals; and		has contravened this Act, the
(h) specifying time periods that shall		Authority may impose administrative
be complied with.		penalties on the person by doing one
(2) In making regulations under		or more of the following
subsection (1), the Minister shall		(a) giving the person a written
consider ( <i>a</i> ) the expertise		warning;
required for the effective design,		(b) directing the person to do a
construction, alteration, repair,		specified act, or refrain from
operation, maintenance and		doing a specified act, for one or more
abandonment of a dam in the		of the following purposes
category concerned; and		(i) to remedy the effects of the
(b) the qualifications and		contravention;
experience needed to provide the		(ii) to compensate persons who have
expertise for a particular category		suffered loss because of
of tasks.		the contravention;

(3) Before making regulations under		(iii) to ensure that the person does not
subsection (1), the Minister		commit further contravention;
shall consult the relevant		(c) requiring the person to pay
professional categories and any		monetary penalty of two million
other appropriate statutory bodies.		Kwacha (K2,000,000); or
S 118 (e) in consultation with the		(d) requiring the person to pay
Ministry responsible for Local		monetary penalty of ten thousand
Government, develop regulations		Kwacha (K10,000) for each day during
providing for the control and		which the contravention continues.
management of storm water within		150. Where an offence against a
municipal areas. 153. The Minister		provision of this Act or
may, on the advice of the Authority,		regulations made hereunder is
from time to time, prescribe		committed by a body corporate, each
guidelines to be followed by any		director of the body corporate also
authorized person.		shall be guilty of the offence and
		on conviction shall be liable to the
the water resource regulation 2018		same penalty unless it is established
S 36( 1) The Authority may classify		that he took reasonable precaution
water use activities into different		and exercise due diligence to avoid
categories for the better		the commission of the offence.
management of resources and		
basic principles for classification.		

(2) Details regarding the criteria		The water resource regulation 2018
applicable to each category of		states S 175. Any person who
water use shall be determined by		contravenes any provision of these
the Authority in consultation with		Regulations or an order made under
the Catchment Management		these Regulations commits an
Committees and other relevant		offence, shall be liable offences to the
stakeholders.		penalties prescribed in the Twenty
(3) The details under subparagraph		Third Schedule and or in the Act.
(2) may in order to reflect		176. A person whose application is
catchment differences, vary from		rejected by the Authority may Appeal
one water body or catchment area		appeal against the decision of the
to another in order to reflect		Authority in accordance with section
catchment differences.		142 of the Act and in the form
( 4) The Authority may from time to		specified in the Twenty Fifth Schedule.
time revise the criteria to reflect		
changing circumstances. 88(1)		
The Authority shall, in considering		
an application made under		
regulations 82 and 84, have regard		
to the following-		
(a) the existing authorized and		
projected quality of water in, up		

and downstream of the discharge
point;
(b) any adverse effect which the
discharge of <i>effluent</i> is likely to
have on-
(i) the existing authorized uses of
water;
(ii) possible future beneficial uses of
water;
(iii) any aquifer or waterway,
including effects on land which
forms the waterway or its
surroundings;
(iv) the environment, including the
riverine and riparian
environment; and
(v) in-stream uses of water;
(c) the minimum water quality
standards and effluent discharge
standards established under the
Environment Management Act;
Cap. 60:02

(d) any guidelines or conditions
relating to effluent discharge
permits issued by the Authority
under regulation 88 or the Act;
(e) Government policy on
environment management and
conservation;
(/) any submissions made under
regulation 86( I ) (g) the comments
of any public authority to which an
application is referred under
section 95 of the Act and any special
conditions that are proposed by
that public authority; and
(h) any other matter which the
Authority considers relevant to the
application. 134. Pursuant to
section 32 of the Act, the Authority
shall formulate Catchment
Management Strategies for each
catchment area which shall
substantially follow the format laid

out in the Seventeenth Schedule (A
compliance strategy that will detail
the timeframe, approaches and
requirements to bring
water users into compliance with
water management regulations).
135. In establishing the Catchment
Management Strategy, the
Authority shall be guided by the Act
and the National Water Policy and
the National Water Master Plan in
force at a relevant time. 13 7( 1)
The Authority shall, after
consultations in accordance with
the Act, develop management rules
or plans that shall apply to each
protected area or groundwater
conservation area. 173. The right of
a licensee and permit holder shall,
notwithstanding anything in his
licence or permit, be subject to and
conditional upon his compliance

with the provisions of the Act and		
any other statutory		
requirements.		
The Malawi bureau of standards		
states S 4.1.6 In general, drinking		
water must satisfy the following		
requirements: (a) safety from water		
borne or associated diseases; (b)		
wholesomeness, which means		
reasonable quantities of required		
chemical (salts) should be present		
in water (distilled water is not ideal		
for drinking). (c) water should be		
clear, palatable and fresh and free		
from excessive concentration of		
chemicals; and (d) water must be		
free from toxic chemicals that are		
injurious to life.		
The national water policy 2005		
3.3.3 Ensure that all persons have		

convenient access to sufficient
quantities of water of acceptable
quality and the associated water-
related public health and sanitation
services at any time and within
convenient distance; 3.3.8 Promote
and advocate water and sanitation
services' pricing and charging
systems that recognize water as
both a social and economic good in
order to institute cost recovery
principles; 3.3.10 Facilitate
development and regular review of
policies and regulations that
promote water
resources development,
conservation, management,
protection and utilization; and
3.3.11 Promote user-friendly
technologies to enable easy access
to water and sanitation services by
all manner of people. 3.4.1 All

people shall have access to potable
water and sanitation services to
reduce the incidence of water
related diseases; 3.4.7 Water
regulation shall be based on reliable
continuous data collection,
management, and
analysis to ensure accurate
assessment of water resources and
dissemination of information for
effective planning of water
resources development; 5.2.2
Ensuring and promoting proper
management and disposal of
wastes;
5.2.3 Developing and promoting
coherent national sanitation policy,
standards and regulations; 6.3.2.3
Harmonizing and mutually
enforcing natural resources
legislations to protect water

resources from degradation and			
pollution.			
Water Resource Act 2013	Water Resource Act 2013	Water Resource Act 2013	Water Resource Act 2013
Water Resource Regulation 2018		National Water Policy 2005	Water Resource Regulation 2018
Malawi Bureau of Standards			
National Water Policy 2005			

# **Costumer Engagement**

### Transparent and inclusive customer engagement

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
the water works act 1995	The national water policy 2005	The national water policy	The water resource act 2013 S 132
S 12 (2) The Board shall, at least	gives this function to the water	2005 mandates the Ministry	(schedule model constitution) 1. The
one month before carrying any pipe	utilities in collaboration with the	responsible for Water Affairs	Constitution of the Association of
or other equipment through, over	ministry and the NWRA	as the lead institution to	Water Users:
or under any public or private land	S 9.3.1 Operate and manage	undertake the monitoring	There is hereby formed the
without the consent of the owner	waterworks for the delivery,	and evaluation's activities of	Association of Water Users
and occupier of such land or any	distribution and management of	the implementation plan of	(hereinafter referred to as the
customary land without the	potable water supply; 9.3.7	this policy which includes	"Association").

consent of the occupier of such land	Collect, process, analyse and	8.2.3 Conducting	The Association, including its
give notice of the intended work	disseminate relevant data and	participatory consultative	management committee, shall have
either by notice published in the	information to all stakeholders	meetings with the relevant	the status of a legal person and in that
Gazette, or in such other manner as	within the water sector; and	stakeholders in order to	capacity it shall be capable of suing
the Minister or any person deputed	9.3.8 Promote private sector	assess the impact of the	and being sued. 2 ( <i>c</i> ) arbitrate in the
by him may in any case direct. (3)	participation in the delivery of	programme.	resolution of conflicts among holders
Such notice shall describe the	water supply and sanitation		of water abstraction
nature of the intended work and	services. 9.1.2 Monitor (in terms		licences and/or effluent discharge
shall name a place where the plan	of quality and quantity), assess,		permits within its area of operation;
of the intended work is open for	plan, develop, conserve, allocate		
inspection at all reasonable hours,	and protect water resources for		The water works act 1995 allows for
and a copy or such notice shall	utilisation in the social and		compensation to any aggrieved
either be – (a) served on every	economic sectors of production		person under this function S 13(1).
person resident in Malawi whose	and services; 9.1.10 Undertake		The Board shall make good all public
place or residence is known and	training and capacity building		and private roads, streets, and paths
who is known or believed to be the	within the water and sanitation		disturbed by its waterworks
owner or occupier of any land	sector. 9.2.1 Co-ordinate and		operations to the reasonable
through, over or under which it is	harmonize the activities of		satisfaction of the highway authority
intended that any pipe or other	Catchment Management		or owner thereof. The Board shall also
equipment shall be carried; or (b)	Authorities and all other		pay compensation for all loss or
displayed in a conspicuous position	stakeholders;		damage caused in the execution of
on such land.			any power by this Act conferred:

35 (4) A schedule showing the tariff	9.2.2 Advise on prescribing and	Provided the owner or occupier of any
of rates and charges payable to the	determining the establishment	land through, over or under which any
Board shall be available for	of water users associations,	pipe is placed, shall not be entitled to
inspection at the offices of the	especially for rural water supply	any rent or way-leave fee in respect of
Board and shall be advertised in	schemes and any other schemes	such pipe. (2) In case any dispute shall
such other manner as the Minister	(for domestic, irrigation or	arise as to whether any road, street or
may, on the advice of the Board,	fisheries) owned and operated,	paths has been adequately made
prescribe. 36. All rates and charges	maintained and managed by	good or as to the amount of
levied and made under this part	rural communities or required by	compensation to be paid under
shall, as from the date they fall due,	entrepreneurs;	subsection (1), such dispute may be
be deemed to be a charge upon the		referred to a Resident Magistrate
premises to which they relate and		having jurisdiction in the District in
shall be recoverable from the		which the cause of dispute arose. Such
occupier, and if he fails to pay, from		Resident Magistrate shall have
the owner of the premises or any		jurisdiction in respect of all such
subsequent owner or occupier or		disputes irrespective of the amount
the agent of any such owner or		thereof and may make such award as
occupier.		he deems reasonable to the person
		entitled thereto. (3) Either party to the
		dispute may appeal from such
The national water policy 2005		decision to the High Court. 49 (1) If the
		Minister has reasonable cause to

S 3.3.5 Promote public and private		suspect that – (a) the Board has failed
sector participation in water		to observe or perform any of the
resources management,		duties or obligations conferred or
development, supply, and		imposed upon it by this or any other
conservation;		Act; (b) the Board has done or
5.2.5 Promoting public awareness		performed any act, matter or thing
on guidelines and standards on		without due authority, he may in his
water quality, public health and		discretion, appoint a person or
hygiene and pollution control		persons to inquire into such matter.
mechanisms;		(2) The Commissions of Inquiry Act
5.2.10 Promoting private sector		shall apply to any inquiry under this
participation in water quality and		Part, provided that for the purposes of
pollution control services;		an inquiry under this Part, those
6.1.1.4 To encourage public-		powers vested by the Commissions of
private partnerships in urban, peri-		Inquiry Act in the Minister responsible
urban and market centers for water		for the administration of that Act shall
supply and sanitation; 6.1.2.4		be deemed to be vested in the
Incorporating local governments		Minister responsible for the
and communities in planning,		administration of this Act. (3) If, upon
development and management of		an inquiry under this Part, the Minister
water supplies and sanitation		is satisfied that the Board has done or
services;		suffered any of the acts, matters or

6.1.2.6 Creating an enabling		things referred to in subsection (1) (a)
environment for public-private		or (b), he may by order in writing,
partnerships in water supply and		require the Board to remedy the same
sanitation activities; 6.2.1.4 To		within such time as he may appoint.
promote community based		(4) If the Board fails to comply with an
management in rural water supply		order of the Minister made under
and sanitation programmes in		subsection (3), the Minister may, in
consultation with Local		addition to any other powers
Governments;		conferred on by this Act – (a) suspend
6.2.1.5 To promote integrated		the exercise by the Board of any of the
approaches to rural water supply		powers conferred upon it by this or
and sanitation services;		any other Act for such period as he
6.2.1.6 To promote active		may think fit; (b) remove from office
participation of youth, women,		all or any of the members and, in his
persons with disabilities and		discretion, appoint new members;
vulnerable persons in planning and		
implementation of rural water		Ombudsman Act No 10 of 1996
supply and sanitation activities;		monitors public service delivery and it
		can independently decide to conduct
		an investigation about a public
The water resource regulation 2018		institutions systems alleged failure to
S 5(1) Unless otherwise provided		deliver its service or services.

by the Authority, a public
consultation shall consist of the
activities as stipulated in section
156 of the Act.
(2) In giving effect to the
requirements of public
consultation, the Authority may
take proactive steps to engage
members of the public who may
otherwise not be informed or
aware of the issues being brought
before them.
(3) The Authority may, in addition to
the activities stipulated in section
156 of the Act, require an
authorized person to hold a public
meeting relating to the application
or proposed action. 18. The
Authority shall, after receipt of any
application referred to in
Regulation 16, refer the application
to any public authority envisaged

under section 44 of the Act for
consideration and comments. 20{
1) The Authority shall cause to be
published quarterly at least in one
national newspaper of wide
circulation and in the Government
Gazette, a list of all the licence
applications.
(2) The Authority shall cause to be
displayed a notice of all applications
received, within a particular region,
at the District Commissioner's,
chief's and the Authority's regional
offices at the end of each month.
(3) The Authority shall cause to be
displayed at the Catchment
Management Board's Office a
notice of all applications received
by the Authority, within each
Catchment Management Board, at
the end of each week.

( 4) The public notification shall
state the name of the applicant, the
water resource for which the
application has been made, the
quantity and purpose for which the
application has been made, the
land registration number and any
additional details that the Authority
may consider relevant to the public
with respect to the licence
application. 22(1) Where any
objection has been lodged against a
particular licence application, the
Authority may undertake a site
meeting with relevant stakeholders
and association, if one exists in the
area, at the particular place for
which the application has been
made before dete1mining the
licence application. (3) The site
meeting referred to in
subregulation (1) shall be open to

the public. 43{I) The Authority
may, with reasonable cause,
declare after public consultation, a
natural watercourse not to be a
watercourse or a constructed
watercourse channel to be a
watercourse. 60 (2) Where an
operator of a dam intends to make
releases, he shall- (b) give notice to
the general public downstream in
not more than forty-eight hours
before the releases. 74( I) For the
regulation of the groundwater
development, the Authority shall
determine in the allocation plan for
a given aquifer or part thereof, the
spacing of boreholes to be
equipped with motorized pump.
(2) The allocation plan shall be
available and accessible to the
public during normal working hours
from any office of the Authority. 80.

The Minister may, after
consultation with relevant public
authorities as per the Act, prescribe
the standards for treated effluent
before discharge into water bodies
or on land. 98 (3) The Authority
shall, upon receiving information on
spillage, take measures to notify the
public of the spillage and cause
action to be taken to deal with the
spillage within the period of twenty-
four hours. <b>138</b> . The Authority shall
undertake Public Consultation with
respect to the establishment of
areas to be Protected or designated
as Groundwater Conservation
Areas and the management rules or
plans that shall apply with respect
to these Areas. <b>142</b> {1) The
Authority shall make the reserve
information on water resources
accessible to the public. 170{1)

The Authority shall cause to be			
displayed on the notice board, at its			
offices and at the offices of the			
District Commissioner of the			
relevant			
district, a list of notifications on			
licences, permits and cancellations,			
within their respective jurisdiction.			
(2) The list displayed pursuant to			
subregulation (1) shall include a			
summary of the information			
pertaining to the water activity.			
(3) Any person who wishes to			
obtain full details of a particular			
licence or permit shall apply to the			
Authority in writing and pay the			
required fee as specified in the			
Twenty Third Schedule.			
Water Works Act 1995	National Water Policy 2005	National Water Policy 2005	Water Resource Act 2013
National Water Policy 2005			Water Works Act 1995
Water Resource Regulation			Ombudsman Act No 10 of 1996

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The water resource act 2013	The water resource regulation	The water resource act 2013	The water resource act 2013 S
S <b>81.</b> The Authority may on its own	2018	states that the NWRA S 10.	<b>142</b> (1) Except as otherwise
initiative, or upon information or	gives this function to the NWRA S	(o) to advise the responsible	provided under this Act, any person
complaint from any source, make	166(1) The Authority may, in	Minister, as the case may	aggrieved by a decision of the
an examination of any borehole	writing, authorize any person	require, on any dispute	Authority, authorized person or public
suspected of containing salt water,	employed Water in the public	between agencies involved in	authority made under this Part of the
and may by order issue instructions	service, or any servant, agent or	water management that may	Act may, within one month, appeal to
for curing any defects in the	contractor of such person, to	be referred to it;	the Minister in a prescribed manner.
borehole. 103(1) If an incident	resources perform any of the		(2) A person who fails, without
occurs in which a harmful substance	powers, duties or obligations		reasonable cause or neglected to
which may find its way into a water	vested in it by these inspector		exercise his right of objection under
resource spills, then the person	Regulations. (2) The following		this Act, shall not have a right to
responsible for the incident or the	persons shall perform the duties		appeal under subsection (1).
owner of the substance involved in	and have the powers		(3) Where a person is still aggrieved
the incident or the one in control of	of water resources inspector-		with the decision of the Minister, he
the substance involved in the	( a) any person appointed to a		may appeal to the Water Tribunal.
incident at the time of the incident	post that is equal to or more		143. A person who neglects or fails to
or any other person with	senior than that of a water		comply with any order or

### Complaints, incident management and problem-solving

knowledge of the incident shall, as	resources officer or water rights	requirement given or imposed on him
soon as reasonably practicable after	officer in the Authority; or (b)	by or under this Act commits
obtaining knowledge of the	persons other than officers of	an offence and on conviction shall be
incident, report to (a) the	the Authority, appointed by the	liable to a fine of one million Kwacha
Minister;	Authority by notice published in	(K1,000,000) and to four (4) years
( <i>b</i> ) the Authority;	the Gazette, as water resources	imprisonment. (16) A water
(c) the Malawi Police Service or to	inspector, which persons may	management institution which fails to
the relevant District	receive such payment in respect	make information at its disposal
Council; and	of their services as the Authority	available to the public under this Act
(d) the relevant catchment	may determine.	commits an offence and shall be liable
management committee.	(3) Every person appointed to	to an administrative penalty. <b>146.</b>
(2) The person responsible for the	perform duties and exercise	Without prejudice to the rights of any
incident, the owner of the	powers of a water resources	person to bring proceedings in respect
substance involved in the incident	inspector shall carry a document	of an offence, the Minister or the
and the person in control of the	of identification, and shall	Authority may, subject to section 148,
substance involved in the incident	produce it when required in the	institute and maintain criminal
at the time of the incident shall	performance of his duties.	proceedings in any court against any
(a) take all reasonable measures to		person accused of an offence under
contain and minimize the	The water works act 1995	this Act or under any rules or
effects of the incident;	S 58. Provides for the	regulations made under this Act.
(b) perform clean-up procedures;	submission of any complaint or	
	information in pursuance of this	

(c) remedy the effects of the	Act shall be made or laid within	The ombudsman Act No 10 of 1996
incident;	and not three months from the	monitors public service delivery and it
(d) take such measures within such	time when the matter of such	can independently decide to conduct
specified time as the Authority may	complaint or information arose	an investigation about public
either verbally or in writing direct;	afterwards.	institutions systems alleged failure to
and	However, the act fails to state	deliver its service or services.
(e) compensate any affected	who the complaints shall be	
community for any and all damage	submitted to and how they will	The water resource regulation 2018 S
suffered to life and property.	be handled	<b>175</b> . Any person who contravenes any
(3) Any verbal directive by the		provision of these Regulations
Authority shall be confirmed in		Penalties for or an order made under
writing within fourteen days,		these Regulations commits an
otherwise the directive shall be		offence, shall be liable offences to the
deemed to have been withdrawn.		penalties prescribed in the Twenty
(4) If the person specified in		Third Schedule and or in the Act. S
subsection (2) fails to comply or to		176. A person whose application is
adequately comply with a directive		rejected by the Authority may Appeal
of the Authority, or if the		against the decision of the Authority in
Authority be unable to give the		accordance with section 142 of the
directive timeously it may itself take		Act and in the form specified in the
the measures it considers necessary		Twenty Fifth Schedule.
to		

(a) contain and minimize the effects
of the incident; (b) perform clean-
up procedures; or
(c) remedy the effects of the
incident.
(5) The Authority may recover all
reasonable costs incurred by it
from the persons specified in
subsection (2) jointly or severally as
a result of taking measures under
subsection (4).
The water resource regulation 2018
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-
( 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

(b) from his observations, he
considers that the ecology is
threatened as a result of the
reserve being violated.
(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.
( 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. (5)
Measures that the Authority may
take include but are not limited to

activities listed in the Sixteenth
Schedule.
(6) Within thirty days after each
report of a reserve violation, the
Authority shall prepare a report
detailing the nature of the reserve
violation and the measures taken to
restore the reserve. 151( 1) A
complaint in the format prescribed
in the Twenty Fourth
Schedule, may be made to the
Authority against any person
licensed as a qualified water
resource professional under these
Regulations if he-
(a) has become incapable of
carrying out the work of a qualified
professional;
(b) has become unfit, through any
reason, to practice as a qualified
professional; or

(c) has failed to comply with the
conditions of his licence or any
provisions of the Act, or of these
Regulations.
(2) The Authority shall hold an
inquiry within thirty days of the
complaint being lodged, and if after
such inquiry the Authority is
satisfied that the complaint has
been justified it shall take
disciplinary action which may
include cancellation of the licence
of the person and his name shall
then be deleted from the register of
qualified professionals.
( 3) The person against whom a
complaint has been made shall be
entitled to appear and be heard at
such inquiry, before his case has
been determined. <b>160</b> (1) A
complaint, in the format prescribed
in the Twenty <b>Fourth</b>

Schedule, may be lodged to the
Authority against any person
licensed as a qualified contractor
under these Regulations if he has-
( <i>a</i> ) become incapable of carrying
out the work of a qualified
contractor;
(b) become unfit, through any
reason, to practice as a qualified
contractor; or
(c) failed to comply with the
conditions of his/her or her licence
or any provisions of the Act, or of
these Regulations.
(2) The Authority shall hold an
inquiry within thirty days of the
complaint being lodged, and if after
such inquiry the Authority is
satisfied that the complaint has
been justified it shall take
disciplinary action which may
include cancellation of the licence

of the contractor and the name			
shall then be deleted from the			
register of qualified contractors.			
(3) The contractor against whom a			
complaint has been made shall be			
entitled to appear and be heard at			
such inquiry, before the case is			
determined.			
The water works act 1995			
S 58. Any complaint or information			
in pursuance of this Act shall be			
made or laid within and not three			
months from the time when the			
matter of such complaint or			
information arose afterwards.			
However, the act is not clear in			
outlining how the complaints will be			
managed and heard.			
Water Resource Act 2013	Water Resource Regulation 2018	Water Resource Act 2013	Water Resource Act 2013
Water Resource Regulation 2018	Water Works Act 1995		Ombudsman Act No 10 of 1996
Water Works Act 1995			Water Resource Regulation 2018

## Service delivery

### Design, commissioning, operation and maintenance of water infrastructure

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The national water policy 2005	There is confusion in authority	The water resource Act 2013	The water works act 1995
provides guidance on water	on who has the oversight of the	provides for in S 24. The need	S 50. Any person who wilfully and
infrastructure to	function with different	for the NWRA, at the end of	negligently causes damage to any
S 3.4.15 All water facilities shall be	documents according to the	each financial year,	waterworks, public fountains, public
registered using a numbering	responsibility of the function to	produce a progress report on	sewers, services, or meters, or who
system developed and adopted by	several institutions.	its activities during that period	unlawfully draws off, diverts or take
the Ministry responsible for Water		and shall publish the report.	water from the same or from any
Affairs. The information shall be	The national water policy 2005	Which is submitted to the	streams or waters by which the
digitized;	states that the ministry	Minister responsible for	waterworks are supplied, or pollutes
3.4.17 There shall be no agricultural	responsible for water is the	Water.	any such water or allows any foul
and infrastructure construction	overseer of this function		liquid, gas or other noxious or
activities below the 477- metre			injurious matter to enter into the

above mean sea level contour line	9.1.4 Invest in sectoral planning,	waterworks, public sewers or any
along Lake Malawi and below the	development and construction	services connected therewith, shall
100-year flood water level along	of water infrastructure, including	be guilty of an offence and shall, for
rivers, except where written	multi-purpose dams;	every offence, be liable to a fine of
authority from the responsible		K2,000, and to a further penalty of
minister is granted; and		K500 for each day during which the
3.4.18 All major water projects		offence continues. 51. Any person
should undergo Environmental	The water resource regulation	who wilfully or negligently misuses or
Impact Assessment (EIA).	2018 gives this function to the	wastes or causes or allows to be
6.1.2.5 Rehabilitating the existing	NWRA	misused or wasted any water passing
infrastructure to ensure sustained	S <b>108</b> . The Authority may	into, through or upon or near any
services to existing consumers and	undertake an inspection or series	premises from any waterworks shall
to reduce production costs through	of inspections of the site	be guilty of an offence and be liable
reduction of unaccounted- for-	associated with a proposed,	to a fine of K2,000. The liability to
water;	ongoing, existing or abandoned	such fine shall not prejudice the
	point of water works.	remedy by suspension of supply or
	109(1) Any person	otherwise as proved by section 16.
The water works act 1995	constructing temporary works	52. Every change of occupancy of
S 3 (6) The Board shall, except for	shall apply for a permit from the	premises shall be notified to the
rural water supply areas, have the	Authority to divert, abstract,	Board. Such occupancy notification
control and administration of all	impound, obstruct, store or use	shall be made by the new occupier
waterworks and all the water in	water to such extent only-	within seven days after going into

such waterworks and the	(a) as may be necessary for such	occupation. Any person who fails to
management of the supply and	construction;	comply with this section shall be
distribution of such water in	(b) in such times and in such	guilty of an offence and be liable to a
accordance with this Act	manner as to interfere as little as	fine of K200. 53. Any person who
	possible with the works of other	alters, or causes or permits to be
The water resource regulation 2018	operators; and	altered, any service with intent to
S 49(1) The Authority shall classify	(c) to cause as little damage as	avoid the accurate measurement or
dams according to the criteria	possible to the property of any	register of water by means of any
detailed in Table 1 of the Fifth	person and the environment.	meter, or to obtain a greater supply
Schedule. 50. A dam shall be	(2) A person constructing works	of water than he is entitled to and to
designed and supervised by the	shall be liable for any	avoid payment therefore or who
appropriate Dam design category of	interference or damage resulting	wilfully or negligently causes damage
Qualified Professional as set out in	from his works.	to any meter shall be guilty of an
Table 2, of the Fifth Schedule. 51. A	(3) All temporary works shall be	offence and be liable to a fine of
dam shall be constructed by the	removed by the responsible	K2,000 and any service so altered or
appropriate category of contractor	permit holder within a period of	meter so damaged shall be replaced
as set out in Table 3 of the Fifth	three months, or such other	or repaired by the Board at the
Schedule. 52(1) Every dam owner	period as the Authority may	expense of the person convicted,
shall cause to be inspected his dam	specify, from the date of	and the cost of replacing or repairing
safety according to the criteria	completion of the works	any such service or meter may be
given in Table 4 in the Fifth	authorized or from the date of	recovered upon the order of a
Schedule and an inspection Report		 magistrate in the same manner as

prepared in accordance with the	expiry of the authorization	any penalty herein provided may be
Seventeenth Schedule and	(whichever is earlier):	recovered upon conviction. 54. Any
submitted to the Authority.	Provided that any quarries,	person who puts or accumulates or
53( I) The net freeboard for Class A	borrow-pits, excavations,	allows to be put or to remain or to
dam shall not be less than 0.6 m.	cuttings, tunnels or other	accumulate, on any premises
(2) The net freeboard for Class B	temporary works which cannot	occupied or owned by him or his
and C dams shall not be less than	be economically rehabilitated or	servants, or who shall not remove or
1.0 m or as otherwise specified by	removed shall instead be	cause to be removed or take such
the Authority on a case by case	rendered safe in the interests of	steps as may be necessary to
basis.	health and property by fencing	prevent, upon notice in writing from
54( I) The minimum acceptable	or such other measure as the	the Board, any foul, noisome or
return period for the design of a	Authority may consider	injurious matter or any earth,
dam spillway is as shown in Table 5,	satisfactory.	deposit or excavated material in such
in the Fifth Schedule hereto.	(4) Where any temporary works	manner or place that it may be
(2) The Authority may require a	are not removed, rehabilitated	washed, fall or be carried into the
higher return period with respect to	or rendered safe within the	waterworks or the gathering grounds
the conditions and risks associated	prescribed period, the Authority	thereof shall be guilty of an offence
with each site.	shall issue an order	and be liable to a fine of K2,000 and
54(I) The minimum acceptable	for the removal, rehabilitation or	for each day during which such
return period for the design of a	rendering safe of the works.	matter, earth, deposits or excavated
dam spillway is as shown in Table 5,	(5) Any person who fails to	material remains unremoved after
in the Fifth Schedule hereto. 57(	comply with the order under	notice in writing from the Board,

1) Any application for a licence to	sub-regulation (4), commits an	requiring the same to be removed, to
construct a Class A, B or C dam	offence.	a further penalty of K500 for each
shall be accompanied by a Dam	l 10{I) Where the Authority has	day during which the offence
Design Report substantially as	cancelled a licence or permit, the	continues.
shown in the Seventeenth Schedule	licensee or the permit holder	
hereto, for approval by the	shall not be relieved of liability	The water resource act 2013
Authority. (2) The level of detail in	for any damage resulting from	provides for S <b>122</b> (1) There is
the Dam Design Report will be	the works constructed, operated	hereby established a tribunal to be
dependent on the class of dam	or maintained under the	known as the Water Tribunal. (2) The
under consideration. 58. A licence	cancelled licence or permit, or	Water Tribunal shall have jurisdiction
applicant, on commissioning the	from any defect or insufficiency	throughout Malawi,
construction of a dam, shall submit	in the works.	with power to conduct hearings
a dam construction progress report	(2) The Authority may, within	anywhere in Malawi. <b>127</b> (1) An
at such time intervals determined	one hundred and eighty days of	appeal shall lie to the Water Tribunal
by the Authority.	the cancellation or expiry of a	at the instance of any aggrieved
59(1) On completion of	licence or permit, serve upon the	person who has a right or proprietary
construction, the licence applicant	permit holder or former licensee	interest which is directly affected by
shall submit to the Authority a Dam	or permit holder whose licence	a decision or order of the Authority,
Completion Report and a Dam	or permit has been cancelled or	the Minister or a catchment
Operation Report substantially as	expired, an order for the disposal	management committee concerning
shown in the Seventeenth Schedule	of all or any portion of the works	any matter regarding water
hereto, in		

conjunction with the Completion	previously used under the	resources management, a permit or
Certificate.	authority of the authorization or	licence
(2) Issuance of the licence is	permit.	under this Act, and the Water
conditional upon approval of the	(3) Any person who fails to	Tribunal shall hear and determine
Dam Completion and Dam	comply with the order served	any such appeal.
Operation Report containing the	under subregulation (I), commits	(2) In addition, the Water Tribunal
details in the Seventeenth Schedule	an offence.	shall have such jurisdiction to
hereto by the Authority. 60(1) It is		hear and determine disputes, and
the responsibility of the operator of		shall have such other powers and
any dam to take adequate	The water works act 1995 states	functions, as may be conferred or
measures, at their cost as detailed	that this function is given to the	imposed on it by or under this or
within the approved Dam	board(s) subject to the	any other written law.
Operation Report to notify the	supervision of the minister S 11.	
Authority and persons downstream	The Board may make, construct	The water resource regulation 2018
likely to be affected in the event of	and maintain all such works as	outlines that <b>Compliance</b> with dam
any discharge from the dam	are necessary which water and	inspection requirements shall be
whether caused by dam	convenient for the purpose of	among the conditions to be
failure, or intended releases from	creating, maintaining and	considered before permit renewal is
the dam that might result in	extending waterworks works	processed where dams are involved.
damage downstream.	may for supplying water for	In addition A person who fails to
(2) Where an operator of a dam	domestic, public and business	follow the steps detailed in the
intends to make releases, he shall-	purposes, for the extinction be	

(a) take adequate measures, at his	constructed of destructive fires,
cost, as detailed within the	for cleansing streets, lanes,
approved Dam Operation Report, to	gutters and sewers, and for all
protect persons, infrastructure and	other purposes to which water
environment downstream likely to	and waterworks are supplied or
be affected in the event of any	are applicable. S 64. The Minister
discharge from the dam caused by	shall have power, on the advice
the releases; and	of the Board, to make rules
(b) give notice to the general public	prescribing any matter or thing
downstream in not more than forty-	which may or should be
eight hours before the releases.	prescribed under this Act and
61(1) A licensee, operator or the	generally to carry into effect the
person having the control of any	provisions thereof.
dam, in the event of serious	
damage or failure, shall submit an	
interim Dam. Damage or Failure	
Report within three days, and a	
detailed Report	
substantially as prescribed in the	
Seventeenth Schedule to the	
Authority within twenty-one days of	
the event.	

(2) A person who fails to submit the
Dam Damage or Failure Report
within the prescribed period
commits an offence. 66( 1) A
person who wishes to engage in the
business of constructing
boreholes shall apply to the
Authority for a drilling permit in the
format prescribed in the Sixth
Schedule.
(2) A person who wishes to engage
a driller under subregulation (1) to
construct a borehole on his land for
the purpose of-
(a) using water;
(b) recharging an aquifer; or
(c) monitoring and research
(d) fitting a motorized pump to a
borehole,
(e) exploration, shall apply to the
Authority for a construction permit
in the Sixth Schedule hereto;

(3) Where any borehole is intended
to be equipped with a motorized
pump, the application shall be
accompanied by a hydrogeological
assessment
report substantially conforming to
the appropriate report prescribed
in the Seventeenth Schedule.
(4) Before any borehole is replaced,
deepened or widened, an owner of
the borehole, or his duly authorized
representative, shall file with the
Authority an application for
authority to carry out such
replacement, deepening or
widening of an existing borehole,
for any water use category.
(5) Where any borehole
encounters, in the course of drilling,
a collapsed, loss of tools, or other
associated drilling problems,
(hereinafter referred to as

downhole problems) but exclude a
dry borehole, the owner of such
borehole well shall drill, without
further reference to the Authority,
a replacement borehole, whose site
shall not be more than fifteen
metres, from the previously
approved site.
(6) Before any borehole is drilled,
after encountering downhole
problems, is moved to a new site of
more than fifteen (15) metres from
the previously approved site, the
owner of the borehole, or his/her
duly authorized
representative, shall file with the
Authority an application for
authority to move to the new site.
(7) An application referred to under
subregulation (1), (2) or (3) shall be
accompanied by the appropriate

application fee specified in the
Twenty Third
Schedule.
(8) Any person who contravenes
the provisions of this .regulation
commits an offence.
67. The Authority may, declare any
class of boreholes or class of works
to be a class to which regulation 66
shall not apply and shall cause such
declaration to be published in the
Gazette. 71{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-
( a) be in a form specified in the
Seventh Schedule hereto;
(b) include plans and drawings of all
works as constructed; and

(c) contain such other information
as the Authority may, in writing,
specify.
(2) The Authority shall not issue a
drilling permit unless a construction
completion report is provided to
the Authority as provided under
subregulation (1). 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.
<b>141</b> (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.
(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-
(a) ecological vulnerability;
(b) vulnerability of population
dependant on that water resource;
(c) local observations with respect
to the naturalized flows or water
levels of minimum values observed
during periods of prolonged
droughts;
(d) where water flow is known to be
normally perennial, then the
reserve quantity shall be sufficient
to ensure perennial flow; and
(e) consultations with associations
of water users if such exists;

142{1) The Authority shall make
the reserve information on water
resources accessible to the public.
(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-
(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
(b) from his observations, he
considers that the ecology is
threatened as a result of the
reserve being violated.
(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.
( 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.
(5) Measures that the Authority
may take include but are not limited
to activities listed in the Sixteenth
Schedule.
(6) Within thirty days after each
report of a reserve violation, the
Authority shall prepare a report
detailing the nature of the reserve
violation and the measures taken to
restore the reserve.
(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.
The water resource act 2013 S
<b>112.</b> (1) An owner of a dam
shall
(a) before submitting an application
for a licence under Part V or within
the period specified, provide the
Authority with
(i) any information, drawings,
specifications, design assumptions,
calculations, documents, copies of
the

Environmental Impact Assessment
Report and test results requested
by the Authority; and
(ii) a copy of the Environmental
Impact Assessment Report and
certificate issued in accordance
with the Environment Management
Act; and
(b) give any person authorized by
the Authority access to the dam, to
enable the authorized officer to
determine whether
(i) the dam is a dam with a safety
risk;
(ii) the dam should be declared to
be a dam with a safety risk;
(iii) a directive should be issued for
specific repairs or alterations to the
dam; or
(iv) the owner has complied with
any provisions of this Act applicable
to the dam.

(2) The Authority may by notice
published in the Gazette declare
a category of dams to be dams with
a safety risk. 113 (2) An approved
professional person appointed to
carry out a task on a dam shall
(a) ensure that the task is carried
out according to acceptable dam
engineering practices;
(b) keep the prescribed records;
(c) compile the prescribed reports;
and
(d) where the task includes
constructing, altering or repairing a
dam, issue a completion certificate
to the owner of the dam to the
effect that the task on that dam has
been carried out according to the
applicable design, drawings and
specifications. (3) An approved
professional person appointed to

carry out a dam safety evaluation
shall
(a) consider whether the safety
norms pertaining to the design,
construction, monitoring,
operation, performance and
maintenance of the dam satisfy
acceptable dam engineering
practices; and
(b) compile a report on the matters
contemplated in (a) according to
the prescribed requirements and
submit the signed and dated report
to the owner of the dam within the
prescribed period. <b>116</b> (1) The
Minister may, on the
recommendation of the Authority,
exempt a dam belonging to a
certain category, by notice
published in the Gazette, from
compliance with any provision of
this Part or any regulation made

<ul> <li>under this Act, on conditions</li> <li>determined by the Minister on the</li> <li>recommendation of the Authority.</li> <li>(2) The Minister may withdraw the</li> <li>exemption or impose further</li> <li>or new conditions in respect of the</li> <li>exemption.</li> <li>(3) Before recommending an</li> <li>exemption, the Authority shall</li> <li>consider</li></ul>
recommendation of the Authority. (2) The Minister may withdraw the exemption or impose further or new conditions in respect of the exemption. (3) Before recommending an exemption, the Authority shall consider (a) the degree of risk or potential
<ul> <li>(2) The Minister may withdraw the exemption or impose further or new conditions in respect of the exemption.</li> <li>(3) Before recommending an exemption, the Authority shall consider</li></ul>
exemption or impose further or new conditions in respect of the exemption. (3) Before recommending an exemption, the Authority shall consider (a) the degree of risk or potential
or new conditions in respect of the exemption. (3) Before recommending an exemption, the Authority shall consider
exemption. (3) Before recommending an exemption, the Authority shall consider (a) the degree of risk or potential
<ul> <li>(3) Before recommending an exemption, the Authority shall consider</li></ul>
exemption, the Authority shall consider (a) the degree of risk or potential
consider (a) the degree of risk or potential
(a) the degree of risk or potential
side a second have the second second second
risk posed by the dam or category
of dams to public safety, property
and the resource quality; (b) the
manner of design, construction,
alteration, repair, impoundment of
water in, operation or
abandonment of the dam or
category of dams;
(c) the supervision involved in the
dam or category of dams;

(d) alternative measures proposed
for regulating the design,
construction, alteration, repair,
operation, maintenance,
impoundment of water in,
inspection or abandonment of the
dam or category of dams and the
effectiveness of these measures;
(e) the knowledge and expertise of
the persons involved in any
task relating to the dam or category
of dams;
(f) comments solicited from the
surrounding communities;
(g) the costs relating to the dam or
category of dams;
(h) any security provided or
intended to be provided for any
damage which could be caused by
the dam or category of dams;
(i) recommendations made in an
environmental impact assessment

or an environmental audit report;		
and		
(j) whether the dam or category of		
dams are permitted in terms		
of a licence or any other		
authorization issued by or under		
any other Act. <b>68.</b> (1) No person		
shall drill, construct, enlarge or		
otherwise alter a borehole, or		
engage in borehole drilling		
programme, for the purpose of		
exploring for groundwater, except		
in accordance with the provisions of		
a permit issued under subsection		
(4).		
(2) Any person who wishes to drill,		
construct, enlarge or alter a		
borehole, or engage in a borehole		
drilling programme for exploring		
for groundwater, shall apply to the		
Authority for a permit to drill a		

borehole or to engage in borehole		
drilling programme in the		
prescribed manner.		
(3) An application for a permit to		
construct or drill a borehole shall be		
made in the manner and it shall be		
subject to such terms and		
conditions as the Authority thinks		
fit, including a term of duration		
which shall not exceed one year:		
Provided that, where the borehole		
is intended to be constructed or		
drilled inside the area of operation		
of a Water Board (a) a notice of		
intent under subsection (1) shall		
also be filed with such Board; and		
(b) such Board may advise the		
Authority as to why, in the Board's		
opinion, an application should not		
be granted, but the Authority shall		
not be bound by the advice of the		
Board.		

(4) Upon receipt of the a	pplication
for a permit under subsec	tion
(2), the Authority shal	, among
other things, consider	
( <i>a</i> ) the safe yield of the aq	uifer from
which the abstraction of	
water is proposed to be m	ade; and
(b) the conformity of the	proposed
use with efficient water	
management practices.	
(5) After considering the a	pplication
in accordance with	
subsection (3), the Auth	ority may
issue a permit to drill a bo	rehole
or to engage in a boreho	le drilling
programme subject to the	2
prescribed terms and c	onditions,
and such other conditions	as the
Minister may prescribe.	
(6) The provisions of Pa	rt V shall
apply, with the necessary	changes,

to a permit to drill a borehole or to		
engage in borehole		
drilling programme issued under		
this section in relation to the		
renewal, transfer, succession,		
suspension, variation or		
cancellation of such permit.		
(7) Unless otherwise exempted, a		
person constructing a borehole		
shall keep a record of the progress		
of the work, which shall include		
(a) measurements of the strata		
passed through and the specimen		
of such strata;		
(b) measurements of the levels at		
which water was struck; and		
(c) measurements of the quantity of		
water obtained at each		
level, the quantity finally obtained		
and the rest level of the water.		
(8) A person to whom subsection (7)		
applies shall allow any person		

authorized by the Authority, at any
reasonable time
(a) to have free access to the
borehole;
(b) to inspect the borehole and the
material excavated from it;
(c) to take specimens of such
material and of water abstracted
from the borehole; and
(d) to inspect and take copies of or
extracts from the record required
to be kept under this section.
(9) Where the person constructing
a borehole on any land is not the
occupier of the land, the obligation
to allow any person
authorized by the Authority to
exercise his rights under this section
shall be the obligation of the
occupier of the land as well as of the
person constructing or drilling a
borehole. <b>70.</b> (1) Where any

borehole is being constructed
within eight hundred metres of an
existing borehole, the Authority
may, by notice
require the person constructing the
borehole to apply tests, to be
specified in the notice, to the
existing borehole and to supply to
the Authority the particulars of the
results of such tests including the
rate of pumping and rest levels of
water.
(2) Where the borehole to which
the tests are to be applied is
situated on the property of a person
other than the person constructing
the borehole and the person
constructing the well or borehole is
unable for any reason to apply the
test, the Authority may, by notice,
require the person upon whose
property the existing borehole is

Γ	situate to apply the tests to be
	specified in the notice to him, and
	to supply to the Authority the
	particulars of the results of such
	tests. <b>76.</b> Every artesian borehole
	and every sub-artesian borehole
	shall be efficiently cased, capped or
	furnished with such appliances as
	will readily and effectively arrest
	and prevent the flow therefrom
	over the surface of the ground or
	wasting from the borehole through
	the strata through which it passes.
	77(1) Any borehole which
	encounters salt water, in this Part
	referred to as a "defective
	borehole", shall be securely cased,
	plugged or sealed off by the owner
	of the borehole, so that the salt
	water is confined to the strata in
	which it was found, and such

casing plugging or cooling shall be
casing, plugging or sealing shall be
done in such a manner as
effectively to prevent the salt water
from escaping from the strata in
which it was found into any other
water-bearing strata or on to the
surface of the ground. (2) This
section shall apply to boreholes
constructed or drilled
before or after the commencement
of this Act.
78. Any person who re-cases or
removes the plugs or seals from
a defective borehole, or deposits or
causes or knowingly permits the
deposit of, any dirt, rubbish or other
material in any such borehole,
except with the written permission
of the Authority, commits an
offence.
<b>79</b> (1) Before any defective
borehole is re-cased or the plugs

are removed, the owne	er of the
borehole, or his duly auth	orized
representative, shall file	with the
Authority an application fo	
permission to carry out	
casing or the removal of	
or seals.	1 0-
(2) The application shal	l contain
such information as the	
Authority may require in	relation
to	
( <i>a</i> ) the name and addre	ss of the
owner of the borehole;	
(b) its location, depth and	sizo.
(c) the amount and lo	
casing or sealing in the bo	
(d) the distance below th	
of the ground to the wate	r
level in the borehole;	
(e) the strata penetrated;	
(f) the distance from the s	surface of
the ground to the top of t	he

salt water stratum and the
thickness of the salt water stratum;
and
(g) any other matter specified by
the Authority in respect of the
borehole.
(3) The application shall also state
the methods proposed for re-
casing, re-plugging or resealing of
the borehole.
80. The Authority, after
consideration of any application
under section 79, may call for
additional data, and may make such
investigation as it considers
necessary, and if the borehole is
found to contain salt water, shall by
order give instructions to the
applicant, specifying
(a) the work that shall be done by
the owner to place it in a
satisfactory condition; and

(b) the time that shall be allowed to		
complete the work, and may		
inspect such work while it is in		
progress. <b>107.</b> (1) The Authority		
may, after reasonable notice to any		
landholder concerned, construct		
and maintain upon any land such		
works as it may deem necessary or		
desirable for the purposes of any		
state scheme.		
(2) Compensation on just terms		
shall be payable by the		
Government to the owner of the		
land on which any such works are		
constructed, but in assessing the		
amount of compensation payable,		
the Minister shall take into		
consideration any benefit accruing		
to the land by the construction of		
the works and any adverse effect on		
the land caused by the works, as the		
case may be.		

(3) The cost of construction and			
maintenance of any such works			
shall be paid out of moneys			
appropriated by Parliament. 109.			
Any person who, in the opinion of			
the Minister, will benefit from the			
scheme or project shall, if the			
Minister so determines, contribute			
towards the cost of the state			
scheme or community project in			
cash or in kind.			
National Water Policy 2005	National Water Policy 2005	Water Resource Act 2013	Water Works Act 1995
Water Works Act 1995	Water Resource Regulation 2018		Water Resource Act 2013
Water Resource Regulation 2018	Water Works Act 1995		Water Resource Regulation 2018
Water Resource Act 2013			

## **Annex 1: Sanitation**

## Planning

## Ensuring legislation, regulations and policy support delivery of national targets,

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
National Sanitation Policy (2008)	The national sanitation policy	The national sanitation policy	Sections 8 and 66 of the
vision where all people have access	<b>2008</b> provides the mandates	outlines a monitoring and	Constitution of Malawi gives
to improved sanitation, where	the Ministry responsible for	evaluation procedure.	Parliament a core mandate in
safe hygienic behavior is the norm,	sanitation affairs overall	The policy provides for the	oversight, legislation and
and where recycling of solid and	arching overseer in the	establishment of National	representation. In carrying out its
liquid waste is widely practiced,	formulation of legislation and	Sanitation and Hygiene	legislative, representative and
leading to a better life of all the	policy. The ministry will	Coordination Unit (NSHCU) for	oversight functions, the Malawi
people in Malawi.	provide policy direction and	effective monitoring and	Parliament has 19 committees
The Public Health Act	coordinate sanitation and	evaluation of the NSP.	comprising of elected Members of
The Act creates the legal framework	hygiene sub sector	The M&E framework for NSP	Parliament (MPs) from different
for the protection of public health in	Programmes with other lead	shall be developed by MoIWD	political parties. These committees
Malawi and broadly provides for	agencies. Prepare enabling		are appointed in order to respond
powers of the administration to			to, consider, inquire into, and deal

regulate and control issues such as	legislation for the	under the guidance of the	with emerging legislative and
animal and food production and	implementation of the policy	Ministry of Economic Planning	public policy decisions.
handling, food and water supply		and Development (MEPD).	
and sewerage.		The NSP will utilize the existing	The Public Service Act (1994)
National Health Policy (2018) to		M&E master plan developed by	makes provision for the
improve the health status of all		MEPD and others. The	administration and
people of Malawi by reducing the		policy will follow a participatory	management of the Public Service.
risk of ill health and the occurrence		M&E approach whereby the	The Act stipulates that subject to
of premature deaths.		beneficiaries at the grassroots	the
National Health Promotion Policy		level will participate in	Constitution and various provisions
(2013) to reduce preventable deaths		monitoring and evaluating	of the Act, the management of the
and disability through effective		programmes of sanitation	public
health promotion interventions.		and hygiene investment plans.	service shall be based on modern
		These will include The District	and appropriate management
Water Works Act 1995 An Act to		Assemblies will form an integral	concepts and
provide for the establishment of		part of tire monitoring process.	techniques within the framework
Water Boards water-areas and for		Members of	which meets the basic
the administration of such water-		the Village Development	requirements for
areas for the development,		Committee (VDC) and the	efficient and effective delivery of
operation and maintenance of		District Executive Committee	services to the public, concern for
waterworks and water-borne		(DEC)	the welfare
sewerage sanitation systems in			

Malawi and for matters incidental	will work hand-in-hand to	of public officers as employees and
thereto or connected therewith	ensure that projects being	adherence to law.
	implemented under NSP are	Part II of the Act provides
Environment Management Act 2017	well monitored.	for fundamental principles for the
The Act contains provisions for		administration of the public
pollution control and regulation of	Annual monitoring reports will	service.
waste, including hazardous waste. It	be produced and made	Section III of the Public Service Act
regulates the handling, storage,	available to the public for	outlines the character of the Public
transportation, classification of	inspection and information. In	Service and key among these are
wastes and the importation and	addition the annual sanitation	that the public service shall:
exportation of hazardous waste. The	and hygiene conferences,	1. Aim to deliver services to
Act subscribes to the polluter pays	which will take place during the	the public in an efficient
principle and places the	'Sanitation Week', shall provide	and effective manner.
responsibility of preventing	a venue for annual review of	
discharge or emission of any	progress as well as problems of	
pollutant into the environment,	both the implementation plan	The Public Service Act (1994)
including the removal or disposal of	and the effectiveness of the	makes provision for
any pollutant, on the polluter.	policy itself.	
		a) Accountability
National Environmental Policy 2004	The MALAWI PUBLIC SERVICE	Public servants and institutions
	MANAGEMENT	shall be responsible and
		answerable to

has several provisions which	POLICY 2018 states that the	the public for the decisions and
provide policy directions for	Malawi Public Service has for a	actions taken, utilization of public
management of waste.	long time been implementing	resources, performance in terms of
. The policy provides for strategies	performance	results achieved or not achieved
for achieving the objective of	management systems to	based on agreed expectations and
promoting urban and rural housing	improve productivity and	shall submit to whatever scrutiny
planning services through: (a) solid	performance. Government	appropriate to public office.
waste disposal using appropriate	introduced an open	b) Transparency
technology as well as proper design,	performance appraisal system	Public Institutions shall be
selection and licensing of disposal	at organizational and individual	accessible and open to the public
sites and routes; (b) sorting	levels.	within the
industrial, clinical, domestic and	The performance appraisal	boundaries of the Laws of Malawi
other types of waste at source to	system is intended to help	to ensure that citizens have easy
facilitate recycling of materials	managers to monitor and	access to government records and
wherever possible;	measure the efficiency and	information, including financial
(c) facilitating the privatization of	effectiveness of	records and information on public
waste management; and (d)	employees and organizations	debts and liabilities and important
ensuring that all hospitals, clinics,		public documents such as
public places and residential areas	The Public Service Act (1994)	development strategies, public
have appropriate sanitation and	makes provision for	policies and national budgets and;
waste and effluent disposal systems.		citizens are able to track service
	a) Accountability	performance and

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The policy imposes a duty on	Public servants and institutions	are provided with information
Government to develop master	shall be responsible and	regarding how important decisions
plans for the conservation and	answerable to	in the public service are made.
utilization of water resources	the public for the decisions and	
including solid and liquid waste	actions taken, utilization of	
management on land and water	public	
bodies and develop plans for	resources, performance in	
development/construction of	terms of results achieved or not	
industrial sites that have adequate	achieved	
and appropriate waste disposal	based on agreed expectations	
systems.	and shall submit to whatever	
Environment Management (Waste	scrutiny	
Management and Sanitation)	appropriate to public office	
Regulations 2008		
These Regulations specifically		
provide for waste management and		
sanitation		
Malawi Bureau of Standards Act		
the Malawi Bureau of Standards		
(MBS) is responsible for the		
administration of the Act. The MBS		

has the authority to establish and
implement standards. The MBS may
by General Notice published in the
Gazette, declare any specification or
code of practice framed, developed
or prepared by the Bureau to be a
Malawi Standard and shall in like
manner give notice of any
replacement or abolition of a
Malawi Standard so declared. The
Malawi Bureau of Standards has
therefore the duty and obligation
to develop standards including those
relating to waste management.

#### Assessing service levels, and current and future demand.

a. Rules, processes and standards	b. Responsibilities and duties		d. Corrective measures, incentives, and sanctions
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The national sanitation policy 2008	The National Sanitation Policy	The national sanitation policy	the Ombudsman Act No. 10 of 1996
provides for establishment of	2008 assigns this function to	outlines a monitoring and	to ensure that all public institutions
mechanisms at national level to	the Ministry Responsible for	evaluation procedure.	work effectively, efficiently, and that
bring about effective Integrated	Sanitation Affairs as lead for	The policy provides for the	they adhere to democratic
multi-sectoral planning,	establishment of the	establishment of a National	principles of openness, fairness,
coordination, implementation and	Management Information	Sanitation and Hygiene	responsiveness, and accountability.
monitoring of sanitation and	System but the following shall	Coordination Unit (NSHCU)	
hygiene promotion.	support:	for effective monitoring and	The office of the Ombudsman
Specifically, the policy under	1. Water Utilities	evaluation of the NSP.	provides oversight by providing a
3.1.3.17 aims to develop and	2. NWRA	The M&E framework for NSP	public complaints/inquiry systems
regularly update databases on	3. Ministry Responsible	shall be developed by MoIWD	aimed at protecting the public
sanitation and hygiene. This will	for Information and	under the guidance of the	against administrative injustice and
include databases on sanitation and	Civic Education	Ministry of Economic Planning	ensuring adherence to quality
hygiene practices; on water supply	4. Local Government	and Development (MEPD).	service delivery within the public
and improved sanitation.		The NSP will utilize the	sector
3.3.3.5 Establish and manage		existing M&E master plan	
sanitation facility databases for all		developed by MEPD and	
cities, municipalities, town		others. The	The Public Service Act (1994) makes
assemblies, market centre's and		policy will follow a	provision for
peri-urban areas for planning		participatory M&E approach	
monitoring and targeting of		whereby the beneficiaries at	a) Accountability
sanitation.		the grassroots level will	

	participate in monitoring and	Public servants and institutions shall
The national water policy 2005 does	evaluating programmes of	be responsible and answerable to
not directly have a specific clause	sanitation	the public for the decisions and
that talks about service levels and	and hygiene investment plans.	actions taken, utilization of public
current and future demands	These will include The District	resources, performance in terms of
however, it states that.	Assemblies will form an	results achieved or not achieved
3.3.3 Ensure that all persons have	integral part of tire	based on agreed expectations and
convenient access to sufficient	monitoring process.	shall submit to whatever scrutiny
quantities of water of acceptable		appropriate to public office.
quality and the associated water-	The MALAWI PUBLIC SERVICE	b) Transparency
related public health and sanitation	MANAGEMENT	Public Institutions shall be
services at any time and within	POLICY 2018 states that the	accessible and open to the public
convenient distance.	Malawi Public Service has for	within the
	a long time been	boundaries of the Laws of Malawi to
	implementing performance	ensure that citizens have easy
	management systems to	access to government records and
	improve productivity and	information, including financial
	performance. Government	records and information on public
	introduced an open	debts and liabilities and important
	performance appraisal system	public documents such as
	at organizational and	development strategies, public
	individual levels.	policies and national budgets and;

The performance appraisal	citizens are able to track service
system is intended to help	performance and
managers to monitor and	are provided with information
measure the efficiency and	regarding how important decisions
effectiveness of	in the public service are made.
employees and organizations	
The Public Service Act (1994)	
makes provision for	
a) Accountability	
Public servants and	
institutions shall be	
responsible and answerable	
to	
the public for the decisions	
and actions taken, utilization	
of public	
resources, performance in	
terms of results achieved or	
not achieved	

	based on agreed expectations	
	and shall submit to whatever	
	scrutiny	
	appropriate to public office	

## Planning future sanitation requirements

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
The National Sanitation Policy	The National Sanitation Policy	The national sanitation policy	the Ombudsman Act No. 10 of 1996
provides under 4.1.7 to ensure holistic planning, designing and	provides the Ministry responsible for sanitation	outlines a monitoring and	to ensure that all public institutions
development of sanitation	affairs the role of 4.1.7 to	evaluation procedure.	work effectively, efficiently, and
programmes; 4.5.1 Co-ordinate and harmonize the activities of	ensure holistic planning, designing and development of	The policy provides for the	that they adhere to democratic
Catchment Management Authorities	sanitation programmes.	establishment of National	principles of openness, fairness,
and all other stakeholders in terms of all sanitation related planning and	While the role of; 4.5.1 Co- ordinate and harmonize the	Sanitation and Hygiene	responsiveness, and accountability.
development.	activities of Catchment	Coordination Unit (NSHCU)	
	Management Authorities and		
	all other stakeholders in terms		

The water works act S11 to S	of all sanitation related	for effective monitoring and	The office of the Ombudsman
provides for the purpose of the	planning and development is	evaluation of the NSP.	provides oversight by providing a
boards. This act provides for	assigned to NWRA.		
11. The Board may make, construct		The M&E framework for NSP	public complaints/inquiry systems
and maintain all such works as are	The national water policy	shall be developed by MoIWD	aimed at protecting the public
necessary and convenient for the	<b>2005</b> Ch 9.1 assigns the		
purpose of creating, maintaining	ministry responsible for water	under the guidance of the	against administrative injustice and
and extending waterworks works for supplying water for domestic, public	affairs as the lead authority in dealing with planning and	Ministry of Economic	ensuring adherence to quality
and business purposes, for the	sanitation measures.	Planning and Development	service delivery within the public
extinction of destructive fires, for cleansing streets, lanes, gutters and	9.1.6 Develop systems for early warnings on floods and	(MEPD).	sector
sewers, and for all other purposes to	droughts and pollution.	The NSP will utilize the	
which water and waterworks are	9.1.7 Undertake policy	existing M&E master plan	
supplied or are applicable.	formulation reviews, and enforcement.		The Dublic Comies Act (1004) we have
<b>The national water policy 2005</b> Ch 1.3 Guides the water sector in the	9.1.8 Establish standards,	developed by MEPD and	The Public Service Act (1994) makes
management and development of	guidelines and inspectorate;	others. The	provision for
its water resources using the IWRM	9.1.10 Undertake training and	policy will follow a	
principles, improving the institutional and legal framework,	capacity building within the water and sanitation sector.	participatory M&E approach	a) Accountability
ensuring sustainable delivery of		whereby the beneficiaries at	Public servants and institutions shall
water supply and sanitation services, effective involvement of		the grassroots level will	be responsible and answerable to
the private sector, protection of the		participate in monitoring and	the public for the decisions and
environment and conformity with		evaluating programmes of	actions taken, utilization of public
the regional and international conventions and agreements in the		sanitation	resources, performance in terms of
management of shared water		Samtation	resources, performance in terms of
resources.		and hygiene investment	results achieved or not achieved
The Malawi National Sanitation and		plans. These will include The	based on agreed expectations and
Hygiene strategy (NSHS) for 2018-		District Assemblies will form	shall submit to whatever scrutiny
2024 set out a five-year			

implementation plan. The	an integral part of time	appropriate to public office
implementation plan. The implementation plan aligns with	an integral part of tire	appropriate to public office.
current guidelines to decentralize	monitoring process.	b) Transparency
services and promote ownership of		Public Institutions shall be
planning and implementation at	The MALAWI PUBLIC SERVICE	accessible and open to the public
district and community level. This approach will build upon the	MANAGEMENT	within the
previous success of the Open	POLICY 2018 states that the	boundaries of the Laws of Malawi
Defaecation Free and Hand Washing with Soap strategies.	Malawi Public Service has for	to ensure that citizens have easy
Planned activities also seek to build	a long time been	access to government records and
upon the successes achieved in		access to government records and
those previous strategies while	implementing performance	information, including financial
specifically addressing the gaps identified through consultations.	management systems to	records and information on public
The NSHS will be continually	improve productivity and	debts and liabilities and important
assessed throughout the implementation plan to ensure	performance. Government	public documents such as
efficacy of the programme is	introduced an open	development strategies, public
tracked. This will be achieved in line with the monitoring and evaluation	performance appraisal system	policies and national budgets and;
framework	at organizational and	citizens are able to track service
	individual levels.	performance and
	The performance appraisal	are provided with information
	system is intended to help	regarding how important decisions
	managers to monitor and	in the public service are made.
	measure the efficiency and	
	effectiveness of	
	employees and organizations	

The Public Service Act (1994) makes provision for
a) Accountability
Public servants and
institutions shall be
responsible and answerable
to
the public for the decisions
and actions taken, utilization
of public
resources, performance in
terms of results achieved or
not achieved
based on agreed expectations
and shall submit to whatever
scrutiny
appropriate to public office

# Financing

#### Financing of sanitation infrastructure

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
The National Sanitation Policy provides for a Sector Wide Approach for Sanitation Financing which refers to a financing mechanism that involves Government, Donor agencies and other stakeholders for Joint Sector Programmes. The financing arrangements advocates joint planning, transparency and accountability and follows an agreed reporting format.	The National Sanitation Policy provides the Ministry responsible for sanitation affairs the role of 4.1.7 to ensure holistic planning, designing and development of sanitation programmes. While the role of; 4.5.1 Co- ordinate and harmonize the activities of Catchment Management Authorities and all other stakeholders in terms of all sanitation related planning and development is assigned to NWRA. The national water policy 2005 Ch 9.1 assigns the ministry responsible for water affairs as the lead authority in dealing with planning and sanitation measures.	The national sanitation policy outlines a monitoring and evaluation procedure. The policy provides for the establishment of National Sanitation and Hygiene Coordination Unit (NSHCU) for effective monitoring and evaluation of the NSP. The M&E framework for NSP shall be developed by MolWD under the guidance of the Ministry of Economic Planning and Development (MEPD).	the Ombudsman Act No. 10 of 1996 to ensure that all public institutions work effectively, efficiently, and that they adhere to democratic principles of openness, fairness, responsiveness, and accountability. The office of the Ombudsman provides oversight by providing a public complaints/inquiry systems aimed at protecting the public against administrative injustice and ensuring adherence to quality service delivery within the public sector

9.1.6 Develop systems	for The NSP will utilize the	
early warnings on flood droughts and pollution	Levisting M/X/E master plan	The Public Service Act (1994) makes
9.1.7 Undertake policy	developed by MEPD and	provision for
formulation reviews, an enforcement.	others. The	
9.1.8 Establish standard	, , , , , , , , , , , , , , , , , , , ,	a) Accountability
guidelines and inspector 9.1.10 Undertake train	I participatory M/X/E approach	Public servants and institutions shall
capacity building within		be responsible and answerable to
water and sanitation se	the grassroots level will	the public for the decisions and
	participate in monitoring and	actions taken, utilization of public
	evaluating programmes of	resources, performance in terms of
	sanitation	results achieved or not achieved
	and hygiene investment	based on agreed expectations and
	plans. These will include The	shall submit to whatever scrutiny
	District Assemblies will form	appropriate to public office.
	an integral part of tire	b) Transparency
	monitoring process.	Public Institutions shall be
	The MALAWI PUBLIC SERVICE	accessible and open to the public
	MANAGEMENT	within the
	POLICY 2018 states that the	boundaries of the Laws of Malawi
	Malawi Public Service has for	to ensure that citizens have easy
	a long time been	access to government records and
	implementing performance	information, including financial

management systems to	records and information on public
improve productivity and	debts and liabilities and important
performance. Government	public documents such as
introduced an open	development strategies, public
performance appraisal system	policies and national budgets and;
at organizational and	citizens are able to track service
individual levels.	performance and
The performance appraisal	are provided with information
system is intended to help	regarding how important decisions
managers to monitor and	in the public service are made.
measure the efficiency and	
effectiveness of	
employees and organizations	
The Public Service Act (1994)	
makes provision for	
a) Accountability	
Public servants and	
institutions shall be	
responsible and answerable	
to	

the public for the decisions
and actions taken, utilization
of public
resources, performance in
terms of results achieved or
not achieved
based on agreed expectations
and shall submit to whatever
scrutiny
appropriate to public office

### Setting and reviewing of fees and charges

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
<b>National Sanitation Policy</b> provide for the NWRA to 4.5.2 determine and collect fees related to water	The National Sanitation Policy provides for the NWRA to 4.5.2 determine and collect fees related to water	The water resources act outlines under 23(1)As	the Ombudsman Act No. 10 of 1996 to ensure that all public institutions work effectively, efficiently, and

abstractions and effluent	abstractions and effluent	soon as practicable, but not	that they adhere to democratic
discharges.	discharges;	later than six months after	principles of openness, fairness,
The national water resources			
regulations in part IV SEC 104{1)		the expiry of each financial	responsiveness, and accountability.
provides for the need for a holder		year, the Authority shall	
of an effluent discharge permit to pay an annual discharge fees		submit to the Minister a	The office of the Ombudsman
effluent discharge fee as may be		submit to the Minister a	The office of the officiality
determined by the Authority.		report concerning its	provides oversight by providing a
(2) The fee referred to in sub		activities during that financial	public complaints/inquiry systems
regulation (I) of this regulation shall be determined having regard to		year.	aimed at protecting the public
(a) the volume, characteristics and			against administrative injustice and
components of effluent to be discharged; and		The MALAWI PUBLIC SERVICE	ensuring adherence to quality
(b) the principle that the true and		MANAGEMENT	service delivery within the public
total costs of environmental pollution should be borne by the		POLICY 2018 states that the	sector
polluter.		Malawi Public Service has for	
However these are not specific on waterborne sanitation facilities and		a long time been	
services within urban areas		implementing performance	The Public Service Act (1994) makes
		management systems to	provision for
		improve productivity and	
		performance. Government	a) Accountability
		introduced an open	Public servants and institutions shall
		performance appraisal system	be responsible and answerable to
		at organizational and	the public for the decisions and
		individual levels.	actions taken, utilization of public

The performance appraisal	resources, performance in terms of
system is intended to help	results achieved or not achieved
managers to monitor and	based on agreed expectations and
measure the efficiency and	shall submit to whatever scrutiny
effectiveness of	, appropriate to public office.
employees and organizations	b) Transparency
	Public Institutions shall be
The Public Service Act (1994)	accessible and open to the public
makes provision for	within the
	boundaries of the Laws of Malawi
a) Accountability	to ensure that citizens have easy
. ,	
Public servants and	access to government records and
institutions shall be	information, including financial
responsible and answerable	records and information on public
to	debts and liabilities and important
the public for the decisions	public documents such as
and actions taken, utilization	development strategies, public
of public	policies and national budgets and;
resources, performance in	citizens are able to track service
terms of results achieved or	performance and
not achieved	

	based on agreed expectations	are provided with information
	and shall submit to whatever	regarding how important decisions
	scrutiny	in the public service are made.
	appropriate to public office	

### Collecting of fees and charges

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
National Sanitation Policy provides	The National Sanitation Policy	The national sanitation policy	the Ombudsman Act No. 10 of 1996
for water utilities under 4.4.5 to Implement investment programmes,	specifies the roles of collecting fees and charges	provide the role to the	to ensure that all public institutions
tariffs and compensations related to	1. water utilities to	Ministry responsible for	work effectively, efficiently, and
the development and management of water supply and waterborne	Implement investment	sanitation affairs under 4.2.2	that they adhere to democratic
sanitation facilities and services.	programmes, tariffs	to Develop and regulate	principles of openness, fairness,
In addition the policy provides for the NWRA under 4.5.2 determine	and compensations related to the	water utilities in terms of	responsiveness, and accountability.
and collect fees related to water	development and	combined tariffs and	
abstractions and effluent	management of water		
discharges.	supply and		

	waterborne sanitation	financing for waterborne	The office of the Ombudsman	
	facilities and services.	sanitation.	provides oversight by providing a	
2.	abstractions and		public complaints/inquiry systems	
			The MALAWI PUBLIC SERVICE	aimed at protecting the public
		MANAGEMENT	against administrative injustice and	
		POLICY 2018 states that the	ensuring adherence to quality	
		Malawi Public Service has for	service delivery within the public	
		a long time been	sector	
		implementing performance		
		management systems to		
		improve productivity and	The Public Service Act (1994) makes	
		performance. Government	provision for	
		introduced an open		
		performance appraisal system	a) Accountability	
		at organizational and	Public servants and institutions shall	
		individual levels.	be responsible and answerable to	
		The performance appraisal	the public for the decisions and	
		system is intended to help	actions taken, utilization of public	
		managers to monitor and	resources, performance in terms of	
		measure the efficiency and	results achieved or not achieved	
		effectiveness of	based on agreed expectations and	
		employees and organizations	shall submit to whatever scrutiny	

	appropriate to public office.
The Public Service Act (1994)	b) Transparency
makes provision for	Public Institutions shall be
	accessible and open to the public
a) Accountability	within the
Public servants and	boundaries of the Laws of Malawi
institutions shall be	to ensure that citizens have easy
responsible and answerable	access to government records and
to	information, including financial
the public for the decisions	records and information on public
and actions taken, utilization	debts and liabilities and important
of public	public documents such as
resources, performance in	development strategies, public
terms of results achieved or	policies and national budgets and;
not achieved	citizens are able to track service
based on agreed expectations	performance and
and shall submit to whatever	are provided with information
scrutiny	regarding how important decisions
appropriate to public office	in the public service are made.

### **Regulatory Oversight**

Monitoring and regulatory oversight to ensure safely managed sanitation (Includes quality standards for safe toilets and for transport, storage and treatment of faecal sludge and their monitoring)

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
The National Sanitation and Hygiene strategy 2018 – 2024 observes that currently there is an absence of a formally established institutional mechanism to promote vertical and horizontal collaboration at District level relating to sanitation and hygiene functions and regulation. However, there are some provisions within the following: Environment Management Act mandates the Malawi Environmental Protection Agency to coordinate the management of the environment including issues relating to waste. Although, specific responsibilities for waste management lie with various sectoral institutions which are mandated by sectoral legislation. National Sanitation Policy provides a. Ministry Responsible for Sanitation Affairs	The National Sanitation Policy observes the roles of Monitoring and regulatory oversight to ensure safely managed sanitation as multi sectoral which includes; local government, water utilities and the Ministry responsible for sanitation affairs as the coordinating institution for all stakeholders	The national sanitation policy outlines a monitoring and evaluation procedure. The policy provides for the establishment of National Sanitation and Hygiene Coordination Unit (NSHCU) for effective monitoring and evaluation of the NSP. The MALAWI PUBLIC SERVICE MANAGEMENT POLICY 2018 states that the Malawi Public Service has for	the Ombudsman Act No. 10 of 1996 to ensure that all public institutions work effectively, efficiently, and that they adhere to democratic principles of openness, fairness, responsiveness, and accountability. The office of the Ombudsman provides oversight by providing a public complaints/inquiry systems aimed at protecting the public against administrative injustice and ensuring adherence to quality service delivery within the public sector

4.1.10 Undertake capacity	a long time been	
building and monitoring	_	
within the water and	implementing performance	
sanitation sector.	management systems to	The Public Service Act (1994) makes
4.1.13 provide regulation	improve productivity and	provision for
framework for the		
provision and management	performance. Government	
of adequate sanitary facilities with hand washing	introduced an open	a) Accountability
at all functions and	performance appraisal	Public servants and institutions shall
gatherings both private and		
public, where food is	system at organizational and	be responsible and answerable to
provided at traditional	individual levels.	the public for the decisions and
cultural ceremonies ;	The performance appraisal	actions taken, utilization of public
b. Local Governments (District,	system is intended to help	resources, performance in terms of
Town, Municipal and City	managers to monitor and	results achieved or not achieved
Assemblies) under	_	
4.7.2 to Conduct sanitation audit at	measure the efficiency and	based on agreed expectations and
community and household level to establish baseline on improved	effectiveness of	shall submit to whatever scrutiny
sanitation coverage and hygiene	employees and organizations	appropriate to public office.
practices; and		b) Transparency
4.7.3 Establish MIS and supporting		
databases on improved sanitation, hygiene practices and coverage of	The Public Service Act (1994)	Public Institutions shall be
potable water supply;	makes provision for	accessible and open to the public
4.7.14 Ensure provision of adequate		within the
numbers of sanitation facilities at		
prison and police stations for	a) Accountability	boundaries of the Laws of Malawi to
inmates and staff;	Public servants and	ensure that citizens have easy
4.7.15 Ensure provision of adequate	institutions shall be	
and appropriate numbers of		

sanitation facilities at commercial/	responsible and answerable	access to government records and
private lodging places, restaurants, tea rooms, bars and informal	to	information, including financial
drinking places, sporting centers and	the public for the decisions	records and information on public
any other gathering places; c. Water Utilities shall be to	and actions taken, utilization	debts and liabilities and important
4.4.10 Ensure adequate provision of	of public	public documents such as
wastewater treatment and disposal facilities for all new city, municipal,	resources, performance in	development strategies, public
town and market centre water	terms of results achieved or	policies and national budgets and;
supply programmes and projects;	not achieved	citizens are able to track service
	based on agreed expectations	performance and
	and shall submit to whatever	are provided with information
	scrutiny	regarding how important decisions
	appropriate to public office	in the public service are made.

## Licencing

#### Licencing, registration and record-keeping of for sanitation infrastructure and activities

a. Rules, processes and standards b. Responsibilities and du	Ities c. Performance monitoring d. Corrective measures, incentives, and sanctions
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The Environmental Management	The Environmental	The Environment	The Environment Management
Act 2017 S 57 {I) A person shall not handle, store,	Management Act 2017 S 9 provides the Malawi	Management (Waste	(Waste Management and
transport, classify or destroy waste	Environment Protection	Management and Sanitation)	Sanitation) Regulations 2008.
other than domestic waste, or operate a waste disposal site or	Agency the role of licensing S57 (2) The Authority may, in	Regulations 2008. Provides	Provides under
plant, or generate waste except in	consultation with relevant	under	S 65. Communication of decision
accordance with a licence issued under this section.	lead agencies, grant to any person a licence to handle,	S 62. Reporting procedures	Where a person applies for a licence
(3) An application for a licence	store, transport, classify or	(1) Any person who is	under these Regulations, the
under this section shall be in the prescribed form or, if no application	destroy any waste, except domestic waste, or to	licensed to carry out any	Director shall communicate his
form is prescribed, in a form as the	generate waste or to operate	activities under these	decision to the applicant within
Authority may determine, and the form shall contain the applicant's	a waste disposal site or plant, subject to conditions	Regulations shall submit	three months.
full names, postal and physical	determined by the Authority.	to the Director bi-annual	S 66. Improvement notice
addresses and any other particulars as the Authority may require.		reports on the conduct of the	(1) Where an inspector has
(4) Any person who, at the		licensed activities.	reasonable cause to believe that
commencement of this Act, ·is carrying on the business of handling,		(2) Where special reporting	any person is violating these
storing, transporting, classifying		procedures are a condition of	Regulations, he may issue against
destroying or disposing of waste shall apply for a licence under this		any licence under these	such a person an improvement
section within six (6) months from		Regulations, such procedures	notice or take any other measures
the date of the commencement of			
this Act.		shall take precedence over	appropriate for correcting the
(5) The Authority may, at any time,		regulation.	situation.
revoke a licence issued under this		S 63. Duty to keep records	(2) An improvement notice issued
section or vary any condition			
attached to the licence if the activity in respect of which the licence is			under sub regulation (1) shall not
issued constitutes an imminent,			prejudice criminal proceedings

actual or potential hazard to the	(1) The holder of a licence	which may be taken under any of
environment or natural resources or	under these Regulations	the provisions of the Act.
if the licensee violates any condition		
endorsed on the licence.	shall—	S 67. Cancellation of licence
(6) The Authority may delegate the	(a) keep records of the	In addition to the provisions of the
power to issue a licence under this		
section to the Director General and anything done by the Director	licensed activities and all	Act, the Director may suspend or
General in the exercise of that	transactions related thereto	; revoke a licence issued under these
power shall be valid for all purposes	and	Regulations if he is satisfied that—
as if it had been done by the		
Authority.	(b) submit the records	(a) the conditions attached to the
	referred to in paragraph (a)	granting of the licence have not
The Environment Management	to the Director every twelve	been complied with; or
(Waste Management and		
Sanitation) Regulations 2008.	months from the	(b) continued operation of the
S 50 outlines the process for Application for a licence to own or	commencement of the	activity will be injurious to the
operate a waste disposal site or	licensed activities.	health of the neighbouring
plant		
(1) Any person who intends to own	(2) The Director may order	environment in general.
or operate a waste disposal site or	the holder of a licence unde	~
plant shall apply to the Director for a	these Regulations to install	
licence.		
(2) An application for a licence to	mechanisms at the expense	the Ombudsman Act No. 10 of 1996
operate a waste disposal site or	of the holder of the licence	o to ensure that all public institutions
plant shall specify whether the		'
facility shall be for the disposal of	take samples and analyze	work effectively, efficiently, and
general or municipal solid waste or	them as the Director may	that they adhere to democratic
the disposal of hazardous waste or for the disposal of both and shall be	direct.	principles of openness, fairness,
in the form set out in the Thirteenth		
Schedule hereto and shall be	64. Register of licences	responsiveness, and accountability.
somedule hereto una shuli be		

accompanied by the fee prescribed	The Director shall maintain a	
in the Twentieth Schedule hereto.		
(3) Where the application is for a	register of holders of licences	The office of the Ombudsman
licence for the disposal of hazardous	to transport wastes, for	provides oversight by providing a
wastes, the applicant shall indicate	storage of wastes or for	public complaints/inquiry systems
the disposal operations that he	C C	
intends to carry out in accordance	operating recycling facilities	aimed at protecting the public
with the categories identified in the	and wastes disposal sites or	against administrative injustice and
Seventh and Eighth Schedules		
hereto and shall enclose—	plants.	ensuring adherence to quality
(a) a detailed description of the		service delivery within the public
process he intends to employ and its possible effects;	The MALAWI PUBLIC SERVICE	sector
(b) a detailed description of the soil	The MALAWI FOBLIC SERVICE	Sector
structure and geology of the area;	MANAGEMENT	
(c) a plan for managing leachate,	POLICY 2018 states that the	
incinerator fumes, fly ash and other		
by-products from the waste;	Malawi Public Service has for	The Public Service Act (1994) makes
(d) a detailed drawing indicating the	a long time been	provision for
structure, construction and	implementing performance	
surroundings of the waste disposal	implementing performance	
site or plant; and	management systems to	a) Accountability
(e) any other matter that may be	improve productivity and	Public servants and institutions shall
required by the Director.		
(3) Any person who operates a	performance. Government	be responsible and answerable to
waste disposal site or plant without	introduced an open	the public for the decisions and
a licence commits an offence.		
51. Licence to own or operate a	performance appraisal	actions taken, utilization of public
waste disposal site or plant The Director may grant a licence in	system at organizational and	resources, performance in terms of
the form set out in the Fourteenth	individual levels.	results achieved or not achieved
Schedule hereto to own or operate		
a waste disposal site or plant if—		
a waste disposal site of plant if		

(a) written approval has been	The performance appraisal	based on agreed expectations and
obtained by the applicant from the		<b>C</b> .
local authority within the area of	system is intended to help	shall submit to whatever scrutiny
which the waste disposal site or	managers to monitor and	appropriate to public office.
plant is located;	measure the efficiency and	b) Transparency
(b) that the Director is satisfied that the owner or operator has the	effectiveness of	Public Institutions shall be
ability and resources to manage the		
facility without causing any damage	employees and organizations	accessible and open to the public
to public health and the		within the
environment, taking into account the findings of any environmental	The Public Service Act (1994)	boundaries of the Laws of Malawi to
impact assessment submitted by the	makes provision for	ensure that citizens have easy
applicant; and (c) notice has been given by the		access to government records and
applicant in the Gazette or such	a) Accountability	information, including financial
local newspapers of daily circulation as the Director shall deem fit on the	Public servants and	records and information on public
proposed waste disposal site or	institutions shall be	debts and liabilities and important
plant, sixty days before the issue of the licence.	responsible and answerable	public documents such as
	to	development strategies, public
	the public for the decisions	policies and national budgets and;
	and actions taken, utilization	citizens are able to track service
	of public	performance and
	resources, performance in	are provided with information
	terms of results achieved or	regarding how important decisions
	not achieved	in the public service are made.

	based on agreed expectations	
	and shall submit to whatever	
	scrutiny	
	appropriate to public office	

### Social and environmental impact assessment and safeguarding.

Rules, processes and standards	Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and
National Sanitatioin Policy 2008	The structural framework	The Environment Management Act	sanctions Guidelines for Environmental Impact
		_	•
	indicates that EIA process is		Assessment (EIA) in Malawi provides for:
3.3.7.2 Ensure compliance with	managed by the Director of	monitoring.	A.6 Fees
effluent discharge standards	Environmental Affairs (DEA),		S-29. The Minister may, by notice
and guidelines at industrial	Environmental Affairs	S32(1) The Authority shall, in	published in the Gazette, prescribe such
premises including conducting	Department (EAD)	consultation with such lead agency as it	fees as may be necessary for covering
pre-investment Environmental		may consider appropriate, carry out or	reasonable costs for scrutinising
Impact Assessment (EIA);	Guidelines for Environmental	cause to be carried out periodic	environmental impact
	Impact Assessment (EIA) in	environmental audits of any project for	assessment reports and for the
4.9.9 Ensure compliance to	Malawi outline the following	purposes of enforcing the provisions of	subsequent monitoring of a project
effluent discharge standards	roles and responsibilities	this Act.	which has been approved for
and guidelines at all			implementation under this Act.
industrial premises including	2.3.1 Environmental Affairs	(2) The owner of the premises or	
conducting pre-investment EIA	Department (EAD)	operator of a project for which an	A.7 Offences Relating to Environmental
		Environmental and Social Impact	Impact Assessment
		Assessment has been made shall keep	

The Furthermore Advances 1		ware and an all and the second s	
The Environment Management	-	records and make annual reports to the	
	process		Section 24(3) or fails to prepare an
	2.3.1.2 Ensuring compliance		environmental impact assessment report
Impact Assessment Monitoring	-		or knowingly gives false information in an
0	EMA	and Social Impact	environmental impact assessment report
	2.3.1.3 Managing the	Assessment.	contrary to section 25 shall be guilty of
	production and updating of		an offence and be liable, upon conviction,
-	guidelines on EIA practice	<b>o o</b> ,	to a fine of not less than K5, 000 and not
Affairs may, on the	and	undesirable effects on the environment	exceeding K200,000 and to imprisonment
recommendation of the	procedures	arising from the implementation of a	for two years.
Authority, specify, by notice	2.3.1.4 Assisting line agencies	project which could not reasonably be	A.8 Closure of premises
published in the Gazette, the	in the preparation of sector-	foreseen	S.76. (1) Where the Director believes, on
type and	specific guidelines on EIA	in the process of conducting an	reasonable grounds, that this Act or any
size of a project which shall not	practice and procedures	Environmental and Social Impact	regulations made hereunder have been
be implemented unless an	2.3.1.5 Updating the list of	Assessment and shall, within a	contravened, the Director may, subject to
Environmental and Social	prescribed projects	reasonable time, report to 'the	subsection (2), order the closure of any
Impact Assessment is carried	2.3.1.6 Secretariat to the TCE	Authority' on the effects and measures	premises by means of, or in relation to
out.	2.3.1.7 Maintaining a register	taken.	which the Director reasonably believes
	of projects being appraised	(4) An inspector may enter any land or	the contravention was committed.
(2) A person shall not undertake	under the EIA process	premises for the purpose	(2) The closure of any premises shall
any project for which an	2.3.1.8 Maintaining a central	of determining how far the activities	cease after the provisions of this Act or
Environmental and Social	library of EIA reports	carried out on that land or	any regulations made hereunder have
Impact Assessment is required	2.3.1.9 Maintaining a	premises conform to the statements	been instituted in respect of the
without the written approval of	directory of local, regional	made in the Environmental and	contravention, in which event the
the Authority, and except in	and international consultants	Social Impact Assessment.	premises shall remain closed until the
accordance with any conditions	capable		proceedings are finally concluded.
imposed in that approval.	of carrying out EIA studies.	33( I) The Authority shall, in	
	Criteria used in selecting the	consultation with any lead agency,	
(3) Any other licensing authority	consultants will be outlined at	monitor-	
	the beginning of the	(a) all environmental phenomena with	
	directory.	a view to making an	
project referred to in		assessment of any possible changes in	
subsection (1) unless an		the environment and their possible	

approval for the project is	2.3.2 Technical Committee on	impacts; and (b) the operation of any	The Public Service Act (1994) makes
granted by the Authority, or the			provision for
grant of the permit or licence is		to determining its immediate and long-	
made conditional upon the	2.3.2.1 Evaluating Project	term effects on the environment.	a) Accountability
approval of the Authority being	Briefs, EIA terms-of-reference	(2) The Authority shall require a	Public servants and institutions shall be
granted.	and EIA reports	developer whose project requires an	responsible and answerable to
	2.3.2.2 Developing project	Environmental and Social Impact	the public for the decisions and actions
(4) The Minister may, on the	approval terms and	Assessment licence to prepare and	taken, utilization of public
advice of the Authority, make	conditions	submit to the Authority, environmental	resources, performance in terms of
regulations for the effective	2.3.2.3 Reviewing and	management plans in a form and	results achieved or not achieved
administration of Strategic	monitoring project auditing	manner prescribed by the Authority.	based on agreed expectations and shall
Environmental Assessment,	programmes	(3) An inspector may enter upon any	submit to whatever scrutiny
Environmental and Social	2.3.2.4 Recommending	land or premises for the purpose of	appropriate to public office.
Impact	courses of action to the	monitoring the. effects on the	b) Transparency
Assessment and Environmental	Director. Reporting to NCE	environment of any·	Public Institutions shall be accessible and
Audit.		activities carried out on that land or	open to the public within the
	2.3.5 National Economic	premises and to enforce compliance	boundaries of the Laws of Malawi to
The National Environmental	Council (NEC)	with the environmental mitigation and	ensure that citizens have easy
Policy 2004 sets an objective		management	access to government records and
to	2.3.5.1 Determining if public-	plans prescribed under subsection {2).	information, including financial
2. Develop,	sector projects are prescribed		records and information on public debts
regularly review	under the EMA and referring	Guidelines for Environmental Impact	and liabilities and important
and administer	PSDs to the Director of	Assessment (EIA) in Malawi indicates	public documents such as development
guidelines for		that:	strategies, public policies and national
Environmental	J		budgets and; citizens are able to track
Impact Assessment		Compliance with the terms and	service performance and
(EIA), audits,		conditions of project approvals under	are provided with information regarding
monitoring, and	0	the EMA is managed through project	how important decisions in the public
evaluation so that		audits developed by the TCE and	service are made.
adverse	thresholds for project referral	approved by the Director.	
environmental	to the Director)		
impacts can be	2.3.5.3 Participating on the		
eliminated or	TCE		

mitigated and	2.3.5.4 Working with the EAD	The MALAWI PUBLIC SERVICE	
environmental	and TCE to develop and		
benefits enhanced.	streamline their working	MANAGEMENT	
	relationship on EIA activities	POLICY 2018 states that the Malawi	
Guidelines for Environmental		Public Service has for a long time been	
Impact Assessment (EIA) in	2.3.6 Sectoral/Line Ministries	Fublic service has for a long time been	
Malawi outlines the EIA		implementing performance	
process.	2.3.6.1 Ensuring that their own projects prescribed	management systems to improve	
Screening;	under the EMA adhere to the	productivity and performance.	
A process of determining what	EIA	Covernment	
projects should be subject to	requirements	Government	
EIA requirements	2.3.6.2 Ensuring that private-	introduced an open performance	
Scoping;	sector projects over which they have jurisdiction adhere	appraisal system at organizational and	
Establishes the principal issues	to the EIA requirements	individual levels.	
to be addressed in an EIA. This is performed by a	2.3.6.3 Participating on the TCE	The performance appraisal system is	
project preparation team	2.3.6.4 Providing information	intended to help managers to monitor	
comprising of the developer and a multi-disciplinary team of	and advice to project developers	and measure the efficiency and	
experts. The team should	2.3.6.5 Advising project	effectiveness of	
ensure that there is public participation in the EIA process.	developers on regulations and monitoring requirements	employees and organizations	
	related		
EIA study	to licensing their projects	The Public Service Act (1994) makes	
Five major stages and the	2.3.6.6 Incorporating DEA		
report	approval terms and	provision for	
1 Identification-What will	conditions in project licences		
happen as a result of the	2.3.6.7 Ensuring that project		
project?	licensing terms and conditions	a) Accountability	
	are met, including those		

2 Prediction-What will be the	specified by the Director of	Public servants and institutions shall be	
extent of the change brought	Environmental Affairs		
about by the project?		responsible and answerable to	
3 Evaluation and Interpretation	2.3.7 Malawi Investment	the public for the decisions and actions	
-Do the changes matter?	Promotion Agency	takan utilization of public	
4 Mitigation-What can be done	(MIPA)/Chamber of	taken, utilization of public	
about the changes?	Commerce/Local Authorities	resources, performance in terms of	
5 Monitoring and Management-		results achieved or not achieved	
What are the monitoring and	2.3.7.1 Review project briefs	lesuits achieved of hot achieved	
management plans?	from the private sector	based on agreed expectations and shall	
6 Report How can decision-	2.3.7.2 Make	submit to whatever scrutiny	
makers be informed of -what	recommendations to the DEA		
needs to be done, given the	2.3.7.3 Monitoring	appropriate to public office	
various alternatives?	compliance by investors		
	2.3.8 Local Training		
	Institutions		
	2.3.8.1 Developing and		
	executing short term training		
	programmes on EIA		
	2.3.8.2 Institutionalise		
	environmental education		
	2.3.9 Non-Governmental		
	Organisations		
	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	
2.3.10 Project Developers	
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	
autionities	
2.3.11 Public	
2.3.11.1 Contributing	
information and advice to EIA	
studies	
2.3.11.2 Commenting on the	
content of EIA reports	
2.3.11.3 Advising project	
developers and the DEA/TCE	
on practical approaches for	
avoiding, minimising or	
compensating for adverse	
environmental impacts	

	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.		
	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		
Environmental Management Act2017 National Environmental Policy 2004 Guidelines for Environmental	2004	Environmental Management Act 2004 Guidelines for Environmental Impact Assessment (EIA) in Malawi document	Guidelines for Environmental Impact Assessment (EIA) in Malawi document

# Compliance

#### Enforcement of regulations regarding safe management of sanitation

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives, and sanctions
Environment Management (Waste	The Environmental	The Environmental	The Environment Management
Management and Sanitation) Regulations 2008.	Management Act 2017 S 9 provides the Malawi	Management Act 2017	(Waste Management and
These Regulations specifically	Environment Protection	Provide for performance	Sanitation) Regulations 2008.
provide for waste management and sanitation.	Agency the role of (c) enforce the right to a clean	monitoring and reporting by	Provides under
Part II places a duty on local	and healthy environment,	the authority	S 69. Polluter responsible to pay for
authorities to prepare waste management plans and operate and	provisions of this Act, and monitor and enforce	S 18. ( I) The Authority shall,	pollution
maintain a municipal sewage	compliance with environment	within four ( 4) months after	Any generator, collector or
collection system for their area of jurisdiction and promote integrated	and natural resources related policies and legislation by lead	the end of each financial year,	transporter of wastes or any person
waste management systems.	agencies;	furnish to the Minister a	responsible for disposal of wastes
Part III deals with the management of general or municipal solid waste	S 38. The Authority shall, in liaison with relevant lead	report on the exercise and	who pollutes the environment by
including: (a) waste separation at	agencies-	performance of its functions	poor management of wastes shall
the source; (b) the collection of the general or municipal solid waste at	(a) establish standards for the discharge of any effluent into	during that year and the	be responsible to pay for any
such a frequency as to prevent the piling of waste; and (c) disposal of	the water bodies of Malawi; and	report shall include financial	

solid waste at a plant identified and	(b) prescribe measures for	statements duly audited, the	damage to the environment
maintained by a competent local	pre-treatment of effluent	report of the auditors. and	occasioned by such pollution.
authority.	before discharge into the		
Part IV deals with solid waste	sewerage system;	such other information as the	S 70. Duty of care
recycling and recycling facilities. It		Minister may, by notice in	(1) Every person, business or
identifies which materials can be recycled and the procedure for		writing to the Authority,	industry shall exercise duty of care
obtaining authorization to operate a		writing to the Authority,	
disposal site or plant.		require.	by avoiding indiscriminate
Part V focuses on the management		(2) The Minister shall, on	disposal of litter, garbage,
of municipal solid-liquid waste including the discharge of effluent		receipt of the report referred	commercial solid waste, and
and of municipal liquid waste into		to in subsection ( I ), lay the	construction and demolition wastes.
the environment		report before the National	(2) Any person who contravenes
The Water Resources Regulation		Assembly, and subsequently	this provision commits an offence.
2018 provides s 82(1) A person-		publish the report.	S 75. Offences and penalties
(a) to whom a works approval has			·
been issued.			Any person who contravenes the
(i) the owner or operator of any industry or trade specified in the		The MALAWI PUBLIC SERVICE	provisions of these Regulations
Eighth Schedule which discharges,		MANAGEMENT	commits an offence and on
or which will discharge effluent into		POLICY 2018 states that the	conviction shall be liable to the
a water body or on land. (ii)responsible for producing,		Malawi Public Service has for	penalties prescribed under the Act.
storing, discharging or disposing of		IVIAIAWI PUDIIC SERVICE HAS IOF	penalties prescribed under the Act.
any effluent or any effluent		a long time been	
containing a substance specified in		implementing performance	
Part C of the Eighth Schedule.			
(iii) engaged in any trade specified in		management systems to	the Ombudsman Act No. 10 of 1996
Part C of the Eighth Schedule; or		improve productivity and	to ensure that all public institutions
(iv) the owner or occupier of any		performance. Government	work effectively, efficiently, and
premises specified in Part C of the			the checavery, endendy, and

Eighth Schedule from which effluent	introduced an open	that they adhere to democratic
may come into contact with water,	performance appraisal	principles of openness, fairness,
directly or indirectly, shall apply to the Authority for an effluent	system at organizational and	responsiveness, and accountability.
discharge permit.	individual levels.	
The Malawi Bureau of Standards has	The performance appraisal	The office of the Ombudsman
published standards such as MW	system is intended to help	provides oversight by providing a
59:2002 regarding solid waste		
handling, transportation, and disposal- code of practice, and MS	managers to monitor and	public complaints/inquiry systems
731:2005 regarding solid waste	measure the efficiency and	aimed at protecting the public
disposal sites, guidelines for safe	effectiveness of	against administrative injustice and
management – code of practice	employees and organizations	ensuring adherence to quality
		service delivery within the public
	The Public Service Act (1994)	sector
	makes provision for	
	a) Accountability	The Public Service Act (1994) makes
	Public servants and	provision for
	institutions shall be	
	responsible and answerable	a) Accountability
	to	Public servants and institutions shall
	the public for the decisions	be responsible and answerable to
	and actions taken, utilization	the public for the decisions and
	of public	actions taken, utilization of public

resources, performance in	resources, performance in terms of
terms of results achieved or	results achieved or not achieved
not achieved	based on agreed expectations and
based on agreed expectations	shall submit to whatever scrutiny
and shall submit to whatever	appropriate to public office.
scrutiny	b) Transparency
appropriate to public office	Public Institutions shall be
	accessible and open to the public
	within the
	boundaries of the Laws of Malawi to
	ensure that citizens have easy
	access to government records and
	information, including financial
	records and information on public
	debts and liabilities and important
	public documents such as
	development strategies, public
	policies and national budgets and;
	citizens are able to track service
	performance and

	are provided with information
	regarding how important decisions
	in the public service are made.

## **Customer engagement**

## Transparent and inclusive customer engagement

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
Guiding principles for th <b>e national</b>	The national sanitation policy	The national sanitation	the Ombudsman Act No. 10 of 1996
sanitation policy 2008 under this	2008 gives this mandate to the	policy	to ensure that all public institutions
function outline the following;	ministry responsible for	CH 6.0 states For effective	work effectively, efficiently, and that
S 2.3.4 Women, men and the	sanitation affairs	monitoring and evaluation of	they adhere to democratic principles
youth shall effectively participate	S 4.1.1 Provide policy direction	the NSP, the Ministry will	of openness, fairness,
in policy, programme	and coordinate sanitation and	form a National Sanitation	responsiveness, and accountability.
	hygiene sub sector programmes;	and Hygiene Coordination	
		Unit (NSHCU). The	

		[	
and project design and	4.1.3 Facilitate the development	effectiveness of the policy	The office of the Ombudsman
implementation to enhance their	of a multi-sectoral NSHPP;	and its implementation will	provides oversight by providing a
role in sanitation and	4.1.5 Conduct regular sanitation	be continuously monitored	public complaints/inquiry systems
hygiene management activities;	for all for dissemination of	and evaluated by the NSHCU	aimed at protecting the public against
2.3.7 The participation of the	sanitation information,	in consultation with the	administrative injustice and ensuring
private sector, NGOs and	technologies and research	Planning Division in the	adherence to quality service delivery
Community Based Organizations	findings;	Ministry of Irrigation &	within the public sector
(CBOs) shall be promoted;	4.1.11 Collect, process, analyze	Water Development and	
2.3.10 Capacity building in	and disseminate relevant data	other stakeholders. The	
sanitation and hygiene promotion	and information to all	work of the NSHCU will be	The national water policy
shall be undertaken at all levels;	stakeholders within the	subject to both internal	S 6.2.2.15 Promoting and instituting
2.3.13 Sanitation and hygiene	sanitation sub-sector;	reviews by the MIWD as well	economic incentives and
research activities of various	4.1.12 Promote private sector	as external reviews involving	opportunities to encourage the
stakeholders shall be encouraged	participation and investment in	all of the ministries involved	participation of small-scale water and
but subject to monitoring and	the delivery of water supply and	in its work.	sanitation service providers.
regulation;	sanitation services;		
3.3.3.3 Undertake civic education		The MALAWI PUBLIC	
and public awareness campaigns		SERVICE MANAGEMENT	The Public Service Act (1994) makes
on improved sanitation and safe		POLICY 2018 states that the	provision for
hygiene practices;		Malawi Public Service has for	
3.3.3.9 Encourage private sector		a long time been	a) Accountability
participation in establishment and		implementing performance	
sanitation and hygiene promotion shall be undertaken at all levels; 2.3.13 Sanitation and hygiene research activities of various stakeholders shall be encouraged but subject to monitoring and regulation; 3.3.3.3 Undertake civic education and public awareness campaigns on improved sanitation and safe hygiene practices; 3.3.3.9 Encourage private sector	stakeholders within the sanitation sub-sector; 4.1.12 Promote private sector participation and investment in the delivery of water supply and	subject to both internal reviews by the MIWD as well as external reviews involving all of the ministries involved in its work. The MALAWI PUBLIC SERVICE MANAGEMENT POLICY 2018 states that the Malawi Public Service has for a long time been	S 6.2.2.15 Promoting and institutin economic incentives and opportunities to encourage the participation of small-scale water a sanitation service providers. The Public Service Act (1994) make provision for

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management of improved	management systems to	Public servants and institutions shall
sanitation facilities in public places	improve productivity and	be responsible and answerable to
at affordable rates;	performance. Government	the public for the decisions and
3.3.3.12 Create -stall-holder	introduced an open	actions taken, utilization of public
committees in markets to manage	performance appraisal	resources, performance in terms of
solid waste disposal, recycling and	system at organizational and	results achieved or not achieved
public toilets;	individual levels.	based on agreed expectations and
3.3.3.13Provide sanitation and	The performance appraisal	shall submit to whatever scrutiny
hygiene training at all training	system is intended to help	appropriate to public office.
institutions for extension workers;	managers to monitor and	b) Transparency
3.5.3.1 Provide training to health	measure the efficiency and	Public Institutions shall be accessible
practitioners and create awareness	effectiveness of	and open to the public within the
to the general	employees and	boundaries of the Laws of Malawi to
public;	organizations	ensure that citizens have easy
		access to government records and
	The Public Service Act (1994)	information, including financial
The national water policy 2005	makes provision for	records and information on public
gives an overview on how the		debts and liabilities and important
policy will implement matters to	a) Accountability	public documents such as
deal with sanitation	Public servants and	development strategies, public
S 1.3 Achieving sustainable	institutions shall be	policies and national budgets and;
provision of water supply and		

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sanitation services that are	responsible and answerable	citizens are able to track service
equitably accessible and used by	to	performance and
individuals and entrepreneurs for	the public for the decisions	are provided with information
socio-economic development at	and actions taken, utilization	regarding how important decisions in
affordable cost;	of public	the public service are made.
3.3.3 Ensure that all persons have	resources, performance in	
convenient access to sufficient	terms of results achieved or	
quantities of water of acceptable	not achieved	
quality and the associated water-	based on agreed	
related public health and sanitation	expectations and shall	
services at any time and within	submit to whatever scrutiny	
convenient distance;	appropriate to public office	
3.3.9 Promote the mainstreaming		
of HIV and AIDS, and Gender		
activities in the water and		
sanitation sector;		
3.3.11 Promote user-friendly		
technologies to enable easy access		
to water and sanitation services by		
all manner of people.		
3.4.1 All people shall have access		
to potable water and sanitation		

services to reduce the incidence of
water related diseases;
5.2.5 Promoting public awareness
on guidelines and standards on
water quality, public health and
hygiene and pollution control
mechanisms;
5.2.10 Promoting private sector
participation in water quality and
pollution control services;
6.1.1.4 To encourage public-private
partnerships in urban, peri-urban
and market centers for water
supply and sanitation; 6.1.2.4
Incorporating local governments
and communities in planning,
development and management of
water supplies and sanitation
services;
6.1.2.6 Creating an enabling
environment for public-private

partnerships in water supply and
sanitation activities;
6.1.2.11 Promoting and instituting
economic incentives and
opportunities to encourage the
participation of small-scale water
and sanitation service providers;
6.2.1.2 To encourage user
participation in catchment
protection, water conservation and
sanitation related activities; 6.2.1.4
To promote community based
management in rural water supply
and sanitation programmes in
consultation with Local
Governments;
6.2.1.5 To promote integrated
approaches to rural water supply
and sanitation services;
6.2.1.6 To promote active
participation of youth, women,
persons with disabilities and

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	vulnerable persons in planning and
	implementation of rural water
	supply and sanitation activities;
	6.2.2.6 Improving public health
	through integration of rural water
	supply and Participatory Hygiene
	and Sanitation Transformation
	(PHAST);
	6.2.2.7 Encouraging participation
	of women, youths, persons with
	disabilities and vulnerable persons
	in water and sanitation activities;
	9.1.10 Undertake training and
	capacity building within the water
	and sanitation sector.
	9.3.8 Promote private sector
	participation in the delivery of
	water supply and sanitation
	services.
	9.4.1 Plan and co-ordinate the
	implementation of water and

sanitation programmes at local
assembly level;
9.4.4 Promote private sector and
NGO's participation in the delivery
of water supply and sanitation
services.
9.10.5 Assist in community
sensitization on water, sanitation,
catchment management and
conservation; C1 (implementation
plan) 3.2 Incorporating local
governments and communities in
planning, development and
management of water supplies and
sanitation services.
the water works act 1995 provides
in
S 12 (2) The Board shall, at least
one month before carrying any

pipe or other equipment through,
over or under any public or private
land without the consent of the
owner and occupier of such land or
any customary land without the
consent of the occupier of such
land give notice of the intended
work either by notice published in
the Gazette, or in such other
manner as the Minister or any
person deputed by him may in any
case direct. (3) Such notice shall
describe the nature of the
intended work and shall name a
place where the plan of the
intended work is open for
inspection at all reasonable hours,
and a copy or such notice shall
either be – (a) served on every
person resident in Malawi whose
place or residence is known and
who is known or believed to be the

owner or occupier of any land
through, over or under which it is
intended that any pipe or other
equipment shall be carried; or (b)
displayed in a conspicuous position
on such land. 35 (4) A schedule
showing the tariff of rates and
charges payable to the Board shall
be available for inspection at the
offices of the Board and shall be
advertised in such other manner as
the Minister may, on the advice of
the Board, prescribe. 36. All rates
and charges levied and made
under this part shall, as from the
date they fall due, be deemed to
be a charge upon the premises to
which they relate and shall be
recoverable from the occupier, and
if he fails to pay, from the owner of
the premises or any subsequent

meeting relating to the application
or proposed action. 18. The
Authority shall, after receipt of any
application referred to in
Regulation 16, refer the application
to any public authority envisaged
under section 44 of the Act for
consideration and comments. 20{
1) The Authority shall cause to be
published quarterly at least in one
national newspaper of wide
circulation and in the Government
Gazette, a list of all the licence
applications.
(2) The Authority shall cause to be
displayed a notice of all
applications received, within a
particular region, at the District
Commissioner's, chief's and the
Authority's regional offices at the
end of each month.

(4) The public notification shall
state the name of the applicant,
the water resource for which the
application has been made, the
quantity and purpose for which the
application has been made, the
land registration number and any
additional details that the
Authority may consider relevant to
the public with respect to the
licence application. 22(1) Where
any objection has been lodged
against a particular licence
application, the Authority may
undertake a site meeting with
relevant stakeholders and
association, if one exists in the
area, at the particular place for
which the application has been
made before dete1mining the
licence application. (3) The site
meeting referred to in

subregulation (1) shall be open to	
the public. 43{I) The Authority	
may, with reasonable cause,	
declare after public consultation, a	
natural watercourse not to be a	
watercourse or a constructed	
watercourse channel to be a	
watercourse.	
80. The Minister may, after	
consultation with relevant public	
authorities as per the Act,	
prescribe the standards for treated	
effluent before discharge into	
water bodies or on land. <b>98</b> (3) The	
Authority shall, upon receiving	
information on spillage, take	
measures to notify the public of	
the spillage and cause action to be	
taken to deal with the spillage	
within the period of twenty-four	
hours. <b>138</b> . The Authority shall	
undertake Public Consultation with	

o the establishment of	
be Protected or	
ed as Groundwater	
ition Areas and the	
nent rules or plans that	
ly with respect to these	
<b>'0</b> {1) The Authority shall	
be displayed on the notice	
its offices and at the	
the District	
ioner of the relevant	
list of notifications on	
permits and cancellations,	
eir respective jurisdiction.	
st displayed pursuant to	
ation (1) shall include a	
of the information	
g to the water activity.	
erson who wishes to	
Il details of a particular	
r permit shall apply to the	
/ in writing and pay the	

required fee as specified in the		
Twenty Third Schedule.		

## Complaints, incident management and problem-solving

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,
			and sanctions
The Environmental Management	The Environmental	The MALAWI PUBLIC	the Ombudsman Act No. 10 of 1996
Act 2017	Management Act 2017	SERVICE MANAGEMENT	to ensure that all public institutions
S 4{ 1) provides that Every person	S 107(I) provides that the	POLICY 2018 states that the	work effectively, efficiently, and that
has the right to a clean and healthy	Environmental Tribunal will be	Malawi Public Service has for	they adhere to democratic principles
environment and has the duty to	responsible for this function.	a long time been	of openness, fairness,
safeguard and enhance the	( provides that is hereby	implementing performance	responsiveness, and accountability.
environment.	established an Environmental	management systems to	
(6) Any person who has reason to	Tribunal (in this Act otherwise	improve productivity and	The office of the Ombudsman
believe that his right to a clean	referred to as. the Tribunal,)	performance. Government	provides oversight by providing a
or healthy environment has been	which shall.	introduced an open	public complaints/inquiry systems
violated by any person may,	(a) consider appeals against any	performance appraisal	aimed at protecting the public against
instead of proceeding under	decision or action of the	system at organizational and	administrative injustice and ensuring
subsection (4), file a written	Authority, lead agency, Director	individual levels.	adherence to quality service delivery
complaint	General or inspector under this		within the public sector

to the Tribunal outlining the nature	Act;	The performance appraisal	
of his complaint and particulars.	(b) hear and determine petitions	system is intended to help	
(7) The Tribunal shall, within thirty	on violation of the right to a	managers to monitor and	The Public Service Act (1994) makes
(30) days from the date of the	clean and healthy environment	measure the efficiency and	provision for
filing of the complaint, institute an	or any other provision of this Act	effectiveness of	
investigation into the activity or	and any written law relating to	employees and	a) Transparency
matter complained about and shall	environment and natural	organizations	Public Institutions shall be accessible
give a written response to the	resources management;		and open to the public within the
complainant indicating what action	(c) receive complaints from any	The Public Service Act (1994)	boundaries of the Laws of Malawi to
the Tribunal has taken or shall	person, lead agencies, private	makes provision for	ensure that citizens have easy
take to restore the claimant's right	sector or non-governmental		access to government records and
to a clean and healthy	organizations relating to the	a) Accountability	information, including financial
environment,	implementation	Public servants and	records and information on public
including instructing the Authority	and enforcement of	institutions shall be	debts and liabilities and important
to take such legal action	environment and natural	responsible and answerable	public documents such as
on the matter as the Authority may	resources	to	development strategies, public
deem appropriate.	management policies and	the public for the decisions	policies and national budgets and;
(8) Subsection (6) shall not be	legislation;	and actions taken, utilization	citizens are able to track service
construed as limiting the right of	(d) consider other issues and	of public	performance and
the complainant to commence an	make declaratory orders the	resources, performance in	are provided with information
action under subsection ( 4 ):	Authority, the Director General,	terms of results achieved or	regarding how important decisions in
	lead agency or any person may	not achieved	the public service are made.

Provided that an action shall not be	refer to it under this Act.	based on agreed	
commenced before the		expectations and shall	
Tribunal has responded in writing		submit to whatever scrutiny	
to the complainant or where the		appropriate to public office.	
The water works act 1995			
S 58. Any complaint or information			
in pursuance of this Act shall be			
made or laid within and not three			
months from the time when the			
matter of such complaint or			
information arose afterwards.			

## Service delivery

Design, commissioning, operation and maintenance of sanitation infrastructure.

a. Rules, processes and standards	b. Responsibilities and duties	c. Performance monitoring	d. Corrective measures, incentives,	
			and sanctions	
The national sanitation policy 2008	The national sanitation policy	The national Sanitation policy	the Ombudsman Act No. 10 of 1996	
S 3.4.4 Objective 2 The objective is	2008 mandates the water	2008	to ensure that all public institutions	
to provide infrastructure for	utilities as lead over this	CH 8.0 states that the	work effectively, efficiently, and that	
improved sanitation services and	function	Ministry responsible for	they adhere to democratic	
sustainable environmental	S 4.4.1 Plan, design, rehabilitate	Sanitation Affairs will be the	principles of openness, fairness,	
management.	and construct infrastructure for	lead institution to undertake	responsiveness, and accountability.	
3.3.5.13 Encourage private sector	wastewater collection,	the monitoring and		
participation in investment and	treatment and disposal in their	evaluation's activities of the	The office of the Ombudsman	
management of improved	respective water areas in	implementation plan of this	provides oversight by providing a	
sanitation facilities in public places	collaboration with local	policy. S 8.2.1 Developing	public complaints/inquiry systems	
at affordable rates;	assemblies;	procedures for monitoring	aimed at protecting the public	
3.3.5.14 Ensure proper design and	4.4.5 Implement investment	and evaluation of the policy	against administrative injustice and	
access to refuse collection points	programmes, tariffs and	implementation;	ensuring adherence to quality	
at markets and in residential areas;	compensations related to the	8.2.2 Undertaking periodical	service delivery within the public	
	development and management	reviews of the specific	sector	
	of water supply and waterborne	programmes of the		
The national water policy 2005	sanitation facilities and services;	implementation plan;		
compliments the sanitation policy	4.4.10 Ensure adequate		The Public Service Act (1994) makes	
	provision of wastewater	The water works act 1995	provision for	
	treatment and disposal facilities			

9.3.5 Implement investment	for all new city, municipal, town	states that this function is	a) Transparency
programmes, tariffs and	and market centre water supply	given to the board(s) subject	Public Institutions shall be accessible
compensations related to the	programmes and projects;	to the supervision of the	and open to the public within the
development and management of	The confusion stands where <b>The</b>	minister S 11. The Board may	boundaries of the Laws of Malawi to
water supply and water borne	national water policy 2005	make, construct and maintain	ensure that citizens have easy
sanitation facilities and services; C1	states that the ministry	all such works as are	access to government records and
(implementation plan)	responsible for water is the	necessary and convenient for	information, including financial
1.6 Undertaking policy guidance for	overseer of this function	the purpose of creating,	records and information on public
planning and designing of water	C1 (implementation plan) 1.5	maintaining and extending	debts and liabilities and important
supply and sanitation	Undertaking installation and	waterworks works may for	public documents such as
infrastructure.	construction of water supply	supplying water for domestic,	development strategies, public
5.2 Strengthening and supporting	and sanitation	public and business purposes,	policies and national budgets and;
Water Utilities through	Infrastructure	for the extinction be	citizens are able to track service
establishment of effective	1.6 Undertaking policy guidance	constructed of destructive	performance and
institutional and governance	for planning	fires, for cleansing streets,	are provided with information
arrangements and major	and designing of water supply	lanes, gutters and sewers, and	regarding how important decisions
infrastructure developments.	and sanitation infrastructure.	for all other purposes to	in the public service are made.
		which water and waterworks	
. The water works act 1995	2.3 Extending and providing	are supplied or are applicable.	
S. 66. Upon the commencement of	water supply and sanitation	S 64. The Minister shall have	
this Act, the Board shall take over -	services to the unserved	power, on the advice of the	
(a) all waterworks for which the	population in Malawi, to meet	Board, to make rules	The water works act 1995

Minister is responsible; (b) such	the millennium Development	prescribing any matter or	
other government operated	Goals (MDGs) in the medium-	thing which may or should be	S 29(1) No person shall throw,
waterworks for which another	term and Vision 2020 in the	prescribed under this Act and	empty, or turn, or suffer or permit
Minister is responsible as the	long-term.	generally to carry into effect	to be thrown or emptied or to pass,
Minister may, after consultation		the provisions thereof. 26(1)	into any public sewer, or into or any
with that other Minister and the		The Board may, within its	drain or private sewer
Board, declare by Order published	The water works act 1995	water-area and also, subject	communicating with a public sewer-
in the Gazette. Taxing over	S 20. The Board shall have	or to the prior approval of the	(a) any matter likely to injure the
67. The Board shall, upon the	power to install and operate	Minister, without its water-	sewer or drain, or to interfere with
commencement of this Act, and	waterborne sewerage sanitation	area - (a) construct and	the free flow of its contents, or to
after consultations water-borne	schemes within the water-area.	maintain a public sewer-	affect prejudicially the treatment
between the Minister and the	27(2) Where some of the	(i) in, under or over any	and disposal of its contents; or (b)
Minister responsible for local	public sewers are reserved for	street, or under any cellar or	any chemical refuse or waste steam,
authorities, take over the sewerage	soil and waste water only for	vault	or any liquid of temperature higher
assets, plant and machinery in	storm water only, the map	below any street; and (ii) in,	than forty three degrees Celsius,
respect of a water-borne sewerage	referred to in this section shall	or over any land forming part	being refuse or steam, which, or a
sanitation system sanitation	show also the purposes which	of a street, after giving	liquid which when so heated, is,
installed and being operated in the	each sewer is intended to serve.	reasonable notice to every	either alone or in combination with
water-area by the local authority of	28. The Board may alter the size	owner and occupier of that	the contents of the sewer or drain,
the water-area.	or course of any public sewer	land; (b) construct water-	dangerous or the cause of a
	vested in it, or may discontinue	borne sewage disposal works	nuisance, or prejudicial to health; or
	and prohibit the use of any such	on any customary land or	(c) any petroleum spirit, or carbide

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sewer, either entirely, or for the	public land or land acquired	of calcium. (2) A person who
purpose of soil and waste water	or lawfully appropriated for	contravenes any of the provisions of
drainage, or for the purpose of	the purpose. (2) In the	this section shall be liable to a fine
storm water drainage, but,	exercise of its powers under	of K200 and to a further fine of K100
before any person who is	subsection 1 (a) (ii), the Board	for each day on which the offence
lawfully using the public sewer	shall make good, or shall pay	continues after conviction there for.
for any purpose is deprived by	for any damage done or	30. Subject to this section and
the Board of the use of the	occasioned to any private	section 33, the owner or occupier
sewer for that purpose, the	land by reason of the exercise	and of any premises, or the owner
Board shall provide a public	of the said powers, failing	of any private sewer, within the
sewer equally effective for his	which the Board shall be	water-area of the Board shall be
use for that purpose and shall at	liable to pay compensation to	entitled to have his drains or private
its expense make his drains or	the owner or occupier of the	sewer made to communicate with
sewers to communicate with the	private land.	any available public sewer of the
sewer so provided.		Board and thereby to discharge soil
		and waste water and storm water
	The MALAWI PUBLIC SERVICE	from those premises or that private
	MANAGEMENT	sewer; Provided that nothing in this
	POLICY 2018 states that the	section shall entitle any person - (a)
	Malawi Public Service has for	to discharge directly or indirectly
	a long time been	into any public sewer- (i) any liquid
	implementing performance	from a manufacturing process or
	l	

management systems to	any liquid from a factory, other than
improve productivity and	domestic sewage or storm water
performance. Government	except by agreement with the
introduced an open	Board; (ii) any liquid or other matter
performance appraisal system	the discharge of which into public
at organizational and	sewers is prohibited under this Act
individual levels.	or any other law; or (b) where
The performance appraisal	separate public sewers are provided
system is intended to help	for soil and waste water and for
managers to monitor and	storm water, to discharge directly or
measure the efficiency and	indirectly –
effectiveness of	(i) soil or waste water into a sewer
employees and organizations	provided for storm water; or
	(ii) except with the approval of the
The Public Service Act (1994)	Board, storm water into a sewer
makes provision for	provided for soil and waste water;
	or (c) to have his drains or private
a) Accountability	sewer made to communicate
Public servants and	directly with a storm water
institutions shall be	overflow; or (d) to have his drains or
responsible and answerable	private sewer made to
to	communicate with a public sewer

the public for the decisions	provided for soil and waste water
and actions taken, utilization	unless and until he satisfies the
of public	Board that the premises to be
resources, performance in	drained have a sufficient water
terms of results achieved or	supply available; or (e) to have his
not achieved	drains or private sewer made to
based on agreed expectations	communicate with any public sewer
and shall submit to whatever	if such sewer is situated in excess of
scrutiny	thirty metres of the curtilage of the
appropriate to public office	premises. 31. Subject as hereinafter
	provided, the owner or occupier of
	premises and the owner of any
	private sewer without the water-
	area of the Board shall have the like
	rights with respect to drainage into
	the available public sewers of the
	Board as he would have had or
	under section 30 if his premises or
	private sewer were situate with in
	its water-area and that section shall
	apply accordingly; Provided that,
	without prejudice to the prohibition

	contained in section 30 against the
	_
	discharge of certain liquids or other
	matters into public sewers or into
	some public sewers or the right of
	the Board under section 33 to
	refuse to permit a communication
	to be made on any of the grounds
	set out in subsection (1) of that
	section and to require the drain or
	private sewer to be laid open for
	inspection, the Board may, in the
	case of a drain or private sewer
	from premises outside its water-
	are, refuse to permit a
	communication to be made except
	upon such reasonable terms and
	conditions as may be prescribed or
	as the Minister may approve. Such
	terms and conditions may include -
	(a) compliance with any reasonable
	requirements to the Board that the
	premises to be drained shall be

	sanitary or in a proper state of
	repair; and (b) such reasonable
	payment or periodical payment,
	subject to any special or general
	directions of the Minister, as the
	Board may see fit to impose
	S <b>50</b> . Any person who willfully and
	negligently causes damage to any
	waterworks, public fountains, public
	sewers, services, or meters, or who
	unlawfully draws off, diverts or take
	water from the same or from any
	streams or waters by which the
	waterworks are supplied, or pollutes
	any such water or allows any foul
	liquid, gas or other noxious or
	injurious matter to enter into the
	waterworks, public sewers or any
	services connected therewith, shall
	be guilty of an offence and shall, for
	every offence, be liable to a fine of

	K2,000, and to a further penalty of
	K500 for each day during which the
	offence continues. 51. Any person
	who wilfully or negligently misuses
	or wastes or causes or allows to be
	misused or wasted any water
	passing into, through or upon or
	near any premises from any
	waterworks shall be guilty of an
	offence and be liable to a fine of
	K2,000. The liability to such fine
	shall not prejudice the remedy by
	suspension of supply or otherwise
	as proved by section 16. 54. Any
	person who puts or accumulates or
	allows to be put or to remain or to
	accumulate, on any premises
	occupied or owned by him or his
	servants, or who shall not remove or
	cause to be removed or take such
	steps as may be necessary to
	prevent, upon notice in writing from

	the Board, any foul, noisome or
	injurious matter or any earth,
	deposit or excavated material in
	such manner or place that it may be
	washed, fall or be carried into the
	waterworks or the gathering
	grounds thereof shall be guilty of an
	offence and be liable to a fine of
	K2,000 and for each day during
	which such matter, earth, deposits
	or excavated material remains
	unremoved after notice in writing
	from the Board, requiring the same
	to be removed, to a further penalty
	of K500 for each day during which
	the offence continues.
	The Public Service Act (1994) makes
	provision for
	a) Accountability

Public servants and institutions shall
be responsible and answerable to
the public for the decisions and
actions taken, utilization of public
resources, performance in terms of
results achieved or not achieved
based on agreed expectations and
shall submit to whatever scrutiny
appropriate to public office.
b) Transparency
Public Institutions shall be accessible
and open to the public within the
boundaries of the Laws of Malawi to
ensure that citizens have easy
access to government records and
information, including financial
records and information on public
debts and liabilities and important
public documents such as
development strategies, public
policies and national budgets and;

	citizens are able to track service
	performance and
	are provided with information
	regarding how important decisions
	in the public service are made.