



Media Council of Malawi (MCM)

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MEDIA COUNCIL OF MALAWI

CONSTITUTION

TRUSTEES INCORPORATION ACT

(CAP. 5:03)

Revised in 2020

<i>Contents</i>	<i>Page</i>
Table of Contents	2
Preamble	3
PART I: PRELIMINARY ISSUES	4
1.1 Name	4
1.2 Registered Office	4
2.0 DEFINITIONS	4
3.0 OBJECTIVES	5
4.0 MEMBERSHIP	6
PART II: COMPOSITION AND ADMINISTRATION	7
5.0 THE GENERAL ASSEMBLY	7
6.0 THE BOARD OF TRUSTEES	7
7.0 COMMITTEES	10
7.1 Ethics, Complaints and Disciplinary Committee	10
7.2 Membership and Accreditation Committee	10
7.3 Finance, Audit and Administration Committee	11
8.0 THE SECRETARIAT.....	11
PART III: MISCELLANEOUS PROVISIONS	12
9.0 INDEMNITY	12
10.0 AMENDMENTS TO THE CONSTITUTION	12
11.0 COMMON SEAL	12
12.0 NOTICES	12
13.0 VESTING OF PROPERTY	12
14.0 DISSOLUTION	13
CERTIFICATION	13

THE MEDIA COUNCIL OF MALAWI

CONSTITUTION

PREAMBLE

WHEREAS it is acknowledged that the media have as their primary function the duty to inform the public accurately and to comment fairly on matters of public interest, without fear or favour and that such duty is fundamental to the existence, sustainability and development of any democratic state; and

RECOGNISING that the public has the right to fair reporting; and

REALISING that the right to freedom of expression is guaranteed by the Constitution of the Republic of Malawi; and

RECOGNISING that freedom of the media can best be protected by ensuring that proprietors, publishers, broadcasters, journalists and other media stakeholders maintain the highest possible standards of professional conduct; and

RECOGNISING FURTHER that the independence of the media and its operation in a responsible manner, based on an ethical framework can only be guaranteed by a self-regulating mechanism and institution;

NOW THEREFORE, there is hereby established a non-profit non-political and self-regulating organization with objectives, aims and powers as appear hereunder.

PART I PRELIMINARY ISSUES

1.1 Name

The name of the organization shall be: **The Registered Trustees of the Media Council of Malawi** which shall be a body corporate with perpetual succession and with powers to sue and be sued in its own corporate name and to acquire and hold property and perform all such acts as bodies corporate may by law perform.

1.2 Registered Office

The registered office of the Council shall be located in LILONGWE or any other place in Malawi as the registered trustees of the organization may determine from time to time. The address for service of the organization shall be: PRIVATE BAG A51 Lilongwe.

2.0 DEFINITIONS

In this Constitution, unless the context otherwise requires:

“**Annual General Assembly**” means a meeting of all paid up members of the Council;

“**Board**” means the Board of Trustees of the Media Council of Malawi as hereunder established;

“**Code of Ethics**” means the Code of Conduct & Practice of Journalism in Malawi;

“**Council**” means the Media Council of Malawi as established hereunder;

“**Foreign journalist**” means any media practitioner who is not a citizen of Malawi and who is employed in Malawi by a foreign media organization or a foreign news agency or press and includes a foreign correspondent;

“**Journalist/Media Practitioner**” means any person who earns most of his or her income from the practice of journalism, or any person who habitually engages in media work and is recognized as such by the Council;

“**Media**” includes electronic i.e. radio, television and online platforms; and print media i.e. newspapers, magazines, any other printed matter of mass circulation to the public including mediated communication such as folk and advertising;

“**Trustee**” means a trustee duly elected by the General Assembly as provided hereunder and in terms of the Trustees Incorporation Act of the Laws of Malawi.

3.0 OBJECTIVES

The objectives of the Council shall be to:

- 3.1 Uphold and maintain the freedom of the media in Malawi, including the freedom of expression and the public right to freely receive and impart information and opinion, and to defend/protect the media from undue pressure from any source;
- 3.2 Update, maintain and promote the Code of Ethics and professional standards for media practitioners and media organizations;
- 3.3 Assist in ensuring that proprietors, publishers, journalists, broadcasters and other media stakeholders adhere to the highest possible standards by strict compliance with the Code of Ethics and improvement of governance and management of the media integrity systems;
- 3.4 Provide alternative dispute resolution mechanism on matters involving the media and the public;
- 3.5 Accredite local and foreign journalists in Malawi in conjunction with the relevant government agency;
- 3.6 Conduct professional development activities for the media in Malawi;
- 3.7 Encourage an ongoing dialogue between the media, government and the public through conferences, seminars, symposia and other fora;
- 3.8 Maintain and promote the status of journalism as a profession;
- 3.9 Promote public awareness of the Council through publication of its activities and operations;
- 3.10 Promote media accountability and safeguard press freedom and the interests of its members and the public in all matters affecting the profession;
- 3.11 Establish and operate an audit bureau of circulation and provide independent consultancy services to publishers, broadcasters, media associations and relevant organizations in the interest of developing an independent and effective media;
- 3.12 Promote media-user empowerment, access and use of media products and services through public outreach services;
- 3.13 Enhance a culture of investing in integrity systems and moral capital in the media through capacity development in media governance, accountability and management systems among media practitioners, organizations and associations;
- 3.14 Promote collaborations and partnerships with stakeholders in the promotion and defence of freedom of expression and media freedom;
- 3.15 Carry out any activities necessary and incidental to achieving its objectives.

4.0 MEMBERSHIP AND ACCREDITATION

- a) Membership shall be at institutional level represented by one person having one vote at the General Assembly, Extra Ordinary Meeting, or at committee meetings, as the case may be while Accreditation will be at individual level.
- b) Membership and accreditation to the Council shall be open to the following;
 - (i) Public and private electronic, print and online media institutions with clear editorial policies and such other policies required for the advancement of professional journalism
 - (ii) Media training institutions recognized by NCHE
 - (iii) Professional journalists' associations, unions, publishers, content producers, media managers, media practitioners, advertising agencies and online platforms.

c) Commencement and Cessation of Membership and Accreditation

- (i) Every media house, media training institution, professional journalists association, union, publisher, content producer, media owner, media practitioner, advertiser, online platform and press club shall, as long as they meet the minimum prescribed standards of the Council, be eligible to become a full member of the Council, either from the date on which it is registered as a media organization by a relevant authority under relevant law or from the date on which it is established by a statute, as the case may be, unless such media organization expressly in writing, declines membership to the Council.

Provided that this provision shall apply to any media house, media training institution, professional journalists' association, union, publisher, content producer, media owner, media practitioner, advertiser, online platform and press club that was registered or established before this Constitution came into force as if it was registered or established after commencement of this Constitution.

All eligible institutions and individuals shall be required to pay membership/accreditation fees.

- (ii) A media organization or any member as described in this article may cease to be a member of the Council at its own request or by expulsion, cessation of operation, bankruptcy, winding up, upon expiry of the paid subscription, otherwise as provided for in this Constitution and shall have its name removed from the register of members.

(d) Associate Members of the Council

The Council shall accord the status of associate membership to any professional association or organization whose aims and objectives complement, support or relate to the Council's objectives but shall have no right to vote.

PART II COMPOSITION AND ADMINISTRATION

5.0 THE GENERAL ASSEMBLY

- 5.1 The Annual General Assembly shall be held every year to review activities and reports for the previous year and adopt a work plan for the coming year.
- 5.2 The Annual General Assembly shall be called by the Secretariat in consultation with the Chairperson of the Board of Trustees through a notice specifying the date, time, place or manner and agenda of the meeting.
- 5.3 The Annual General Assembly shall be called by a notice in writing served in person or by post or by placing such notice in the local media, at least 21 days before such Annual General Assembly.

5.4 Extra-Ordinary Meetings

The Chairperson of the Board of Trustees shall at his/her discretion call for an extra-ordinary meeting of the Council to deal with any urgent matters;

Provided that a notice of fourteen (14) days is given in writing specifying the date, time, place and agenda of the meeting.

5.5 Quorum

At any Annual General Assembly or Extra Ordinary meeting, the quorum shall be 50 percent plus one of all paid up members.

6.0 THE BOARD OF TRUSTEES

6.1.1 The Board of Trustees shall have a maximum of 11 (eleven) and a minimum of 7 (seven) members comprising representatives from paid up media members; members of the public appointed from each of the following institutions: the Public Affairs Committee (PAC), the Council for Non-Governmental Organizations (CONGOMA) and the Malawi Law Society (MLS); and a Chairperson who shall be a person of very high standing in society who may be a veteran in the media profession or a highly respected member of the public with passion for the media in the country;

Provided that the media members shall always be drawn from:

- (a) one community media house
- (b) one religious media house
- (c) one private print media houses
- (d) one private electronic media house
- (e) one public media institution
- (f) Directorate of information as ex-officio
- (g) Online media institution

6.1.2 The media members shall be nominated and elected by members sitting at the Annual General Assembly.

6.1.3 The Board shall elect a Vice Chairperson from among their number who shall preside at every meeting of the Board in the absence of the Chairperson provided that the same shall be of the opposite sex.

6.2 The Trustees shall hold office for a period of three years; and may be re-elected for another three-year term of office;

Provided that no person shall hold office of Trustee for more than two terms, whether consecutive or not or any other term of office upon expiry of the aforesaid two terms.

6.3 The Board shall develop its own rules and procedures for conducting business of its meetings.

6.4 A vacancy may be created in the Board of Trustees if the Trustee:

- a) Dies;
- b) Is declared bankrupt;
- c) Resigns;
- d) Fails to attend three consecutive meetings of the Board of Trustees without any reasonable excuse;
- e) Conducts himself or herself in a manner that puts the Council into disrepute;
- f) Develops unsoundness of mind as defined by the Mental Treatment Act rendering him or her incapable of conducting business of the Council; and
- g) Is recalled by the General Assembly due to unsatisfactory performance of his or her duties.

Provided that any trustee who is appointed to replace another shall only hold office for the remaining part of the term of office.

6.5 Any vacancy that may occur in the Board of Trustees shall be filled not later than three (3) months from the date of the occurrence of the vacancy.

6.6 FUNCTIONS AND RESPONSIBILITIES OF THE BOARD OF TRUSTEES

The Board of Trustees shall have the following functions and responsibilities:

- 6.6.1 To provide policy direction to the Council in line with the dictates of the Constitution or functioning of an appointed office of this Constitution;
- 6.6.2 To act and provide strategic direction to the Council in order for it to achieve and promote its objectives and principles as espoused in this Constitution as well as the designated professional code of conduct and complaints procedures;
- 6.6.3 To establish committees as established in this Constitution in order for the Council to fulfil its mandate and roles; and
- 6.6.4 To guarantee the integrity, effective management and financial self-sustainability of the Council.
- 6.6.5 To establish committees, other than those established by this Constitution, as it may deem necessary and determine their terms of reference, powers, duration and composition for the performance of the Council's functions in achieving its objectives under this Constitution.
- 6.6.6 To perform all functions incidental and/or necessary to achieving the objectives of the Council.

6.7 Meetings of the Board of Trustees

- a) The Board shall hold their ordinary meetings at least twice a year but may hold extraordinary meetings at any time as need may arise.
- b) The Board shall meet at least once in every six (6) months at a place, manner and date to be determined by the Chairperson in consultation with Secretariat.
- c) All Board meetings shall be called by the Chairperson in consultation with all members. Members may attend the meetings virtually with approval of the Chairperson.
- d) The quorum at all Board meetings shall be Six (6).
- e) Where there is no quorum after thirty minutes have elapsed from the time when the meeting was to commence, the meeting shall be adjourned until the following calendar week at the same time and venue. If at such further meeting there is still no quorum, then the members present shall be deemed to constitute a quorum for the purpose of the meeting.
- f) As much as possible, decisions of the Board regarding any issue shall be made by consensus. Where consensus is not possible, the issues shall be decided by a simple majority of the voting members present and voting, and in the event of a tie of votes, the person presiding shall have a casting vote or a second vote.

7.0 COMMITTEES

The Council shall form the following three permanent committees:

- a) Ethics, Complaints and Disciplinary Committee
- b) Membership and Accreditation Committee
- c) Finance, Audit and Administration Committee.

7.1 Ethics, Complaints and Disciplinary Committee

- (i) The Committee shall comprise Five (5) members three (3) of whom shall be from the media and two (2) from the public provided that one of the public members shall be the representative from the Malawi Law Society.
- (ii) The Committee shall in consultation with the Board draw up its own rules of procedure.
- (iii) The Committee shall be responsible for updating, maintaining and promoting the Code of Ethics and professional standards for media practitioners, journalists and media organizations
- (iv) The Committee shall be responsible for receiving and adjudicating on complaints and grievances as provided for in the rules of procedure.
- (v) All complaints shall be disposed of with urgency and in any event not later than two (2) months after receipt of such complaint.
- (vi) Upon receipt of any complaint, the Committee shall aim at resolving the matter through mediation and negotiations, and shall only resort to adjudication where such mediation and negotiations have failed.
- (vii) Upon determination of a complaint the Committee may:
 - a) Censure;
 - b) Order an apology;
 - c) Order publication of the corrected version of the article from which the complaint arose;
 - d) Order full publication of the results of the hearing.

7.2 Membership and Accreditation Committee

- (i) The Committee shall comprise five (5) members four (4) of whom shall be from the media and one (1) from the public provided that the media members shall include the representative from the relevant government agency and the representative from a journalism training institution.
- (ii) The Committee shall in consultation with the Board draw up its own rules of procedure.

- (iii) The Committee shall be responsible for formulating and recommending to Council procedures and standards for admission or rejection of membership
- (iv) The committee shall develop a strategy to promote expansion of MCM membership.
- (v) The Committee shall, through the Secretariat, receive applications for and process the accreditation of both local and foreign journalists.

7.3 Finance, Audit and Administration Committee

- (i) The Committee shall comprise five (5) members three (3) of whom shall be from the media and two (2) from the public provided that one of the public members shall be from the Institute of Chartered Accountants in Malawi (ICAM).
- (ii) The Committee shall in consultation with the Board draw up its own rules of procedure.
- (iii) The Committee shall be responsible for overseeing management of funds of the Council and the production of audited annual accounts.
- (iv) The Committee shall be responsible for fundraising for the Council.

8.0 THE SECRETARIAT

- 8.1 The Board of Trustees shall appoint an Executive Director.
- 8.2. The Executive Director shall:
 - (i) In liaison with the Board appoint such staff as may be necessary from time to time.
 - (ii) Be responsible for the day-to-day running of the affairs of the Council and shall deal with all correspondence and manage all records of the Council;
 - (iv) Subject to the directions of the Council, arrange the business of the Council, issue notices convening Council meetings, record and keep minutes of the proceedings of the Council;
 - (v) Be responsible in consultation with the Membership/Finance Committee for fundraising for the Council;
 - (vi) Be the spokesperson of the Council;
 - (vii) Be the Secretary to the Board of Trustees and Committees as herein provided and Sub-Committees as may be established from time to time;
 - (viii) In the performance of his/her duties report to the Council and in particular, the Chairperson;
 - (ix) Perform such other functions as the Council may from time to time direct.

PART III: MISCELLANEOUS PROVISIONS

9.0 INDEMNITY

In the event of any prosecution commenced against any Trustee or any office bearer of the Council for anything done in the proper discharge of his duty, such person shall be defended and indemnified by and at the cost of the Council for all damages, costs and expenses which may result from such prosecution and the property and the funds of the Council may be applied for such purpose.

10.0 AMENDMENTS TO THE CONSTITUTION

- (i) This Constitution shall be amended at a General an Annual Assembly or Extra Ordinary General Assembly by two thirds majority of members present at such General Assembly or Extra Ordinary General Assembly; provided that:
- (ii) A written notice of not less than 14 days shall be given to all members by the Secretariat of any such proposed amendments.

11.0 COMMON SEAL

The Council shall have a Common Seal of the Trustees which shall be securely kept under the custody of the Secretary to the Board. The Common Seal shall not be affixed to any instrument except to Deeds and other documents required by law to be executed by the Council under seal and shall be so affixed in the presence of the Secretary to the Board and one Trustee as witnesses to each other and every document to which the Common Seal has been so affixed shall be signed by the Secretary and a Trustee in whose presence the Seal is so affixed.

12.0 NOTICES

A notice given under this Constitution shall be sent by ordinary mail or by electronic mail, by hand delivery, or any other recognized mode of delivery such as courier, facsimile or telex to the member at his/her last known address in Malawi or such other address as may be notified by that member.

13.0 VESTING OF PROPERTY

The title to all movable or immovable property which may be acquired by or on behalf of the Council shall vest in the Trustees.

14.0 DISSOLUTION

- (i) The Council may be dissolved by a decision of two thirds of all members at an Annual General Assembly or Extra Ordinary General Assembly called for that purpose;
- (ii) A written notice of not less than 21 days shall be given to all members by the Secretariat of such intended dissolution.
- (iii) If, upon dissolution and after satisfaction of all its debts and liabilities, there remain any assets or property or cash, the same shall be given or transferred to some other organization or Association having objectives or activities similar to those of the Council or any charitable organization to be determined by members at the meeting of dissolution.

CERTIFIED BY



.....
CHAIRPERSON

This *16th* day of *January* ~~2020~~ *2021*