MALAWI GOVERNMENT

(Published 10th February, 2023)

Act

No. 4 of 2023

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
8th February, 2023

ARRANGEMENT OF SECTIONS

SECTION

1. Short title
2. Amendment of s. 63 of the Constitution
3. Amendment of s. 75 of the Constitution
4. Amendment of s. 76 of the Constitution
5. Amendment of s. 80 of the Constitution

ENACTED by the Parliament of Malawi as follows —

1. This Act may be cited as the Constitution (Amendment) Act, 2023. Short title

2. Section 63 (2) of the Constitution is amended, by deleting paragraph (*b*) of the proviso and substituting therefor the following new paragraph— Amendment of s. 63 of the Constitution

"(*b*) any by-election to fill the vacancy shall be held in the next quarter of the calendar year after the seat of the member becomes vacant, or if the circumstances do not so permit, then as expeditiously as possible, but a by-election shall not be held where a vacancy occurs within twelve months before the holding of a general election.".

3. Section 75 of the Constitution is amended by— Amendment of s. 75 of the Constitution

(*a*) deleting subsection (1) and substituting therefor the following new subsection—

"(1) There shall be a commission known as Malawi Electoral Commission which shall consist of a Chairperson who shall be a Judge, nominated in that behalf by the Judicial Service Commission and appointed by the President, and such other members, not being less than four and not more than six, as may be appointed in accordance with an Act of Parliament."; and

(*b*) deleting the words "Electoral Commission" wherever they appear in the section and substituting therefor the words "Malawi Electoral Commission".

Amendment of s. 76 of the Constitution

4. Section 76 of the Constitution is amended—

(*a*) by deleting the words "Electoral Commission" wherever they appear in the section and substituting therefor the words "Malawi Electoral Commission"; and

(*b*) in subsection (2) (*b*), by deleting the word "five" and substituting therefor the word "ten".

Amendment of s. 80 of the Constitution

5. Section 80 of the Constitution is amended by deleting subsection (2) and substituting therefor the following new subsection—

"(2) The President shall be elected by a majority of more than fifty percent of the valid votes cast through direct, universal and equal suffrage and where a majority of more than fifty percent is not obtained by any candidate in the first poll, a second poll shall be held within sixty days after declaration of the results in the first poll, in accordance with an Act of Parliament.".

Passed in Parliament this thirteenth day of December, two thousand and twenty two.

FIONA KALEMBA
Clerk of Parliament