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Act

No. 26 of 2024

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
4th November, 2024

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An Act to provide for the regulation and practice of property valuation, and to provide for matters incidental thereto or connected therewith

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

Short title and commencement

1.—This Act may be cited as the Property Valuation Act, 2024, and shall come into operation on such date as the Minister may appoint by notice published in the *Gazette*.

Interpretation

2.—In this Act unless the context otherwise requires—

"authorized valuer" means an authorized valuer appointed under section 7;

"Board" means the Board of Valuers established under section 9;

"Commissioner" means Commissioner for Valuation appointed under section 3;

"Government valuer" means a valuer employed in the public service pursuant to section 6;

"land" has the meaning ascribed to it under the Land Act; Cap. 36:01

"market value" means the estimated amount for which an asset should, on the date of valuation, be exchanged between a willing buyer and a willing seller, after proper marketing, and where the parties act knowledgeably, prudently and without compulsion;

"property" means interests, rights and benefits related to the ownership of physical land and improvements thereon, or movable assets;

"Registrar" means the Registrar of the Board designated pursuant to section 9;

"technician valuer" means a person who is registered as a technician valuer under section 28 (4);

"Tribunal" means the Valuation Tribunal established under section 19;

"valuation" means a process in which the value of an interest in property is assessed and determined by a valuer;

"valuation practice" means a system where a valuer determines value of an interest in land and movable property, business, ownership or user rights; and

"valuer" means a person registered as valuer under section 28.

PART II—ADMINISTRATION

Commissioner for Valuation

3.—(1) There shall be a Commissioner for Valuation (in this Act otherwise referred to as the "Commissioner") who shall be a public officer, and shall be responsible for advising the Minister on all matters in relation to valuation practice and activities.

(2) A person shall not be qualified to be appointed Commissioner under this Act unless that person—

(*a*) holds a minimum qualification of a Bachelors' degree in real estate, or an equivalent qualification obtained from a university or institution recognized or accredited by the National Council for Higher Education;

(*b*) is registered and licensed to practice under this Act; and

(*c*) has practiced for not less than ten years' as a licensed valuer.

Powers and functions of the Commissioner

4.—(1) Subject to special and general written direction of the Minister, the Commissioner shall—

(*a*) advise the Minister on valuation matters and activities, including valuation rates in the purchase and disposal of Government properties;

(*b*) carry out valuation of properties or other assets upon request from Government institutions, the private sector or the general public;

(*c*) carry out or cause to be carried out, and oversee and approve or endorse, valuation reports of authorized Government valuers and authorized valuers;

(*d*) carry out research and maintain a valuation data bank for the use by valuers and members of the public;

(*e*) prepare and maintain a data base or related data of all property transactions;

(*f*) call for bi-annual returns, in the prescribed form, from registered and licensed valuers on their work;

(*g*) prepare and submit to the Minister quarterly reports on valuation activities;

(*h*) manage complaints arising out of valuation of Government properties; and

(*i*) perform any other functions as may be assigned by the Minister.

(2) In performing functions under subsection (1) the Commissioner shall have power to—

(a) appoint, recommend or approve Government valuers and authorized valuers for specific valuation assignments, as may be required;

(*b*) recommend to the Board disciplinary measures to be taken against any Government valuer and authorized valuers; and

(*c*) impose fees in respect of services rendered by Government valuers and authorized valuers, as may be prescribed.

(3) The Commissioner shall perform functions and exercise powers under this Act in a manner which—

(*a*) promotes transparency and public confidence in valuation practice;

(*b*) does not allow any other interest to compromise, or in any other way jeopardise, the integrity of the valuation profession; and

(*c*) manifests fairness and impartiality without due regard to one's social or economic status.

Power to review and certify Government valuation reports

5.—(1) The Commissioner shall have power to review and certify every valuation report made in respect of Government property.

(2) Where the Commissioner is not satisfied with the manner in which any valuation was conducted, he may reject the valuation report and order fresh valuation by another Government valuer to ensure the valuation meets the requirements of this Act.

Appointment of Government valuers

6.—(1) There shall be appointed in the public service such number of registered and licensed Government valuers, subordinate to the Commissioner, as the Minister may determine, who shall assist the Commissioner in the performance of his functions under this Act.

(2) Government valuers appointed under subsection (1) shall, under the supervision of the Commissioner, undertake valuation of Government property in Government departments or other entities as may be required, from time to time.

(3) Government valuers may, subject to the directions and supervision of the Commissioner, undertake valuation of private property upon request by a private individual or entity.

(4) A person shall not be qualified to be appointed as a Government valuer under subsection (1), unless that person—

(*a*) holds a minimum qualification of a Bachelors' degree in real estate, or an equivalent qualification obtained from a university or institution recognized or accredited by the National Council for Higher Education; and

(*b*) is registered and licensed to practice under this Act.

(5) The names of all Government valuers appointed under subsection (1) shall be published in the *Gazette*.

Appointment of authorized valuers

7.—(1) The Commissioner may appoint any registered and licensed valuer to be an authorized valuer, who shall undertake valuation functions, as may be directed by the Commissioner.

(2) A person shall not be qualified to be appointed as an authorized valuer under subsection (1), unless that person-

(*a*) holds a minimum qualification of a Bachelors' degree in real estate, or an equivalent qualification obtained from a university or institution recognized or accredited by the National Council for Higher Education;

(*b*) is registered and licensed to practice under this Act; and

(*c*) has practiced for not less than five years as a licensed valuer.

(3) The names of all authorized valuers appointed under subsection (1) shall be published in the *Gazette*.

Power to delegate

8.—(1) The Commissioner may in writing delegate any of the functions of that office to a Government valuer, or authorized valuer, for such time as the Commissioner may stipulate.

(2) Any delegation under subsection (1) may be made in respect of a specific matter or class of matters, or generally, and may be limited to any particular part of Malawi.

(3) The Commissioner may, at any time, revoke any delegation under subsection (1), and any such delegation shall not prevent the Commissioner from carrying out any of the matters so delegated.

PART III—BOARD OF VALUERS AND VALUATION TRIBUNAL

Establishment and composition of the Board Valuers

9.—(1) There is hereby established the Board of Valuers (in this Act otherwise referred to as the "Board") which shall consist of—

(*a*) three persons, being land economy surveyors and valuers in private practice, registered and licensed to practice under the Act, appointed by the Minister;

(*b*) a representative of the Bankers' Association of Malawi, appointed by the Minister;

(c) an academic in real estate from an institution of higher learning which provides real estate studies, appointed by the Minister;

(*d*) a representative of Local Government Associations, appointed by the Minister;

(*e*) a legal practitioner of not less than ten years' experience, appointed by the Minister; and

(*f*) the following *ex-officio* members—

(i) the Surveyor General; and

(ii) Commissioner for Lands.

(2) The Minister shall, in making appointments under subsection (1) (*a*), (*b*), (*c*) (*d*) and (*e*)—

(*a*) take into account the provisions of the Gender Equality Act; and Cap. 25:06

(*b*) have regard to the need for continuity in the membership of the Board so that at least two members of the immediate past Board shall be retained.

(3) The Chairperson of the Board shall be appointed by the Minister from amongst the persons appointed under subsection (1) (*a*), (*b*), (*c*), (*d*) and (*e*).

(4) The Vice-Chairperson of the Board shall be elected by the members of the Board from amongst their number at the first meeting of the Board.

(5) The Minister shall designate—

(*a*) a public officer who is registered and licensed under this Act to be Registrar of the Board, and who shall be responsible for the day to day management of the functions of the Board; and

(*b*) public officers, subordinate to the Registrar, to perform such functions as are necessary to assist the Registrar in the discharge of the functions and duties of the Registrar.

(6) The Registrar shall perform such functions and carry out such duties as shall be stipulated by the Board.

Powers and functions of the Board

10.—The Board shall have power to—

(*a*) register and license valuers

(*b*) define unprofessional conduct, the mode of inquiry into and the method of dealing with such misconduct and the penalties

which may be imposed upon a valuer found guilty of such misconduct;

(*c*) enforce rules of professional conduct;

(*d*) prescribe the scale of fees to be charged by registered and licensed valuers for professional advice, services rendered and work done;

(*e*) prescribe required professional indemnity for licensing valuers;

(*f*) prescribe the terms and conditions subject to which articled pupils may be engaged; and

(*g*) ensure the maintenance and improvement of the status of valuers in Malawi.

Term of office and vacancies

11.—(1) A member of the Board, other than *ex-officio* member, shall hold office for a period of three years, and shall be eligible to be re-appointed for a further term of three years.

(2) A member of the Board, other than an *ex-officio* member, may at any time resign from office in writing addressed to the Minister.

(3) A member of the Board, other than an *ex-officio* member, who is absent from three consecutive meetings without sufficient cause ceases to be a member of the Board.

(4) The Minister may by letter addressed to a member revoke the appointment of that member where the member is—

(*a*) unable for any reason to perform functions of a member;

(*b*) adjudged to be of unsound mind;

(*c*) declared bankrupt;

(*d*) convicted of an offence, and sentenced without the option of a fine; or

(*e*) ceases to hold the qualifications for appointment as a member or circumstances arise which would have qualified the member to be appointed a member of the Board.

(5) Where a member of the Board is, for a sufficient reason, unable to act as a member, the Minister shall determine whether the inability would result in the declaration of a vacancy.

(6) Where a vacancy occurs in accordance with subsection (2), (3), (4) or (5), or by reason of the death of a member, the Minister shall appoint a person to fill the vacancy in accordance with section 9 (1).

(7) The Board may, in its discretion, at any time and for any period, co-opt any person with specific knowledge, information or expertise, to attend any meeting of the Board or a committee of the Board, and to address the Board or a committee of the Board on any matter, but such person shall not be eligible to vote at the meeting on a decision of the Board or a committee, as the case may be.

(8) Section 16 shall apply, with necessary modifications, to a person attending a meeting of the Board or committee of the Board pursuant to subsection (7).

Meetings of the Board

12.—(1) The Board shall meet at least once every three months for the despatch of business at a time and place determined by the Chairperson.

(2) The Chairperson shall, at the request in writing of not less than one-third of the membership of the Board, convene an extra-ordinary meeting of the Board at a time and place determined by the chairperson.

(3) The Chairperson shall preside at meetings of the Board, and in the absence of the Chairperson, the vice chairperson shall preside and, in the absence of both the chairperson and vice chairperson, a member of the Board elected by the members present from among their number shall preside.

(4) The quorum at a meeting of the Board is five members.

(5) A decision the Board on any question shall be by a majority of the members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Registrar shall be the secretary of the Board, and shall record and keep minutes of meetings of the Board, and the minutes shall be confirmed at the subsequent meeting of the Board.

(7) Subject to the provisions of this Act, the Board shall determine its own procedure.

Committees of the Board

13.—(1) The Board may establish such number of committees as the Board determines necessary for the performance of its functions under this Act.

(2) A committee shall consist of, either members of the Board only, or members of the Board, and such other suitably qualified persons as the Board may determine.

(3) The Board shall appoint a chairperson of each committee from among members of the Board appointed under section 9 (1) (*a*), (*b*), (*c*) (*d*) and (*e*).

(4) Every committee shall act in accordance with any directions given in writing to it by the Board.

(5) The Registrar shall act as secretary of committees of the Board, or may, with the approval of the Chairperson, delegate any senior public officers, subordinate to the Registrar, to act as secretaries to committees.

Allowances and expenses

14.—(1) Members of the Board and members of a committee of the Board shall be paid such allowances as the Minister may determine, after consultation with the Minister responsible for finance.

(2) The Board may reimburse any reasonable expenses incurred by a member of the Board, a member of a committee of the Board or a person invited to attend a meeting pursuant to section 11 (7).

Oath of office

15.—Every—

(*a*) member of the Board;

(*b*) member of a committee of the Board; and

(*c*) person co-opted to attend a meeting of the Board pursuant section 11 (7),

shall upon assumption of office, or before attending a meeting of the Board, take an oath of secrecy in the form set out in the *Schedule*.

Disclosure of interest

16.—(1) A member of the Board or a committee of the Board, or a person invited to attend a meeting of the Board or a committee of the Board under section 11 (7), who has a direct or indirect interest in any matter before the Board or a committee of the Board, as the case may be, shall disclose the interest as soon as is practical before or soon after the commencement of the meeting, and shall not take part in any consideration or discussion of, or vote on, any question on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest under subsection (1) shall be recorded in the minutes of the meeting at which it was made.

(3) Where a person fails to disclose an interest in accordance with subsection (1) and the Board or committee of the Board makes a decision which benefits that person, a close relative, or professional or business partner, of that person, the decision shall, to the extent that it benefits that person, the close relative, or professional or business partner, as the case may be, be null and void.

(4) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall revoke the appointment of the member.

(5) Without limiting any further cause of action that may be instituted against the member, the Board shall recover the benefit derived by a member who contravenes subsection (1), in addition to the revocation of the appointment of the member.

(6) For purposes of this section, "close relative" includes a spouse, brother, sister, parent, child, child of a spouse and the spouse of any these relations.

Protection from liability

17. No action or proceeding shall be brought personally against any member of the Board or committee of the Board, in respect of any act or omission done in good faith in the course of carrying out the provisions of this Act.

Funds of the Board

18.—(1) The funds of the Board shall consist of—

(*a*) such sums as may be appropriated by Parliament for purposes of this Act;

(*b*) such moneys as may accrue to or received by the Board by way of registration and licensing fees, subsidies, contributions, subscriptions, charges and penalties, levies;

(*c*) monies paid to the Board by way of grants or donations;

(*d*) any other monies which may in any manner become payable to, or vested in, the Board in respect of any matter incidental to its functions.

(2) The funds of the Board shall be utilized for purposes of this Act, in accordance with the written directions of the Board, and for no other purpose.

Establishment of Valuation Tribunal

19.—(1) There is hereby established a Valuation Tribunal (in this Act otherwise referred to as the "Tribunal") which shall consist of—

(*a*) a representative of the Surveyors Institute of Malawi, appointed by the Minister;

(*b*) a legal practitioner of not less than ten years' experience, appointed by the Minister; and

(*c*) the Commissioner for Lands.

(2) The Tribunal shall hear complaints on valuation or decisions of the Commissioner on valuation as may be referred, to it from time to time.

(3) The Tribunal shall establish its own procedures, and its decision on matters of fact shall be final.

(4) Any party who is dissatisfied with the decision of the Tribunal may appeal on point of law to the High Court.

PART IV—PRINCIPLES AND PROCEDURES OF VALUATION PRACTICE

Valuation guidelines

20. Every valuer engaged in valuation shall comply with valuation standards prescribed by the Board, including international valuation standards, Royal Institute of Chartered Surveyors Professional Standards, and the guidelines and principles stipulated under this Part.

Objectives of valuation

21.—(1) Every valuer shall, in accordance with instructions received for any valuation, indicate the purpose of the valuation in the valuation report.

(2) Without derogating from the generality of the foregoing, the purpose of valuation may be for—

(*a*) rating;

(*b*) compensation;

(*c*) land rent assessment;

(*d*) deceased estate administration;

(*e*) capital gains tax administration;

(*f*) transfer of land;

(g) rental;

(*h*) mortgage;

(*i*) financial reporting;

(*j*) insurance;

(*k*) investment;

(*l*) purchase;

(*m*) sale;

(*n*) reserve price;

(*o*) lease renewal and surrender;

(*p*) stock market floatation;

(*q*) [court] bail; and

(*r*) any other purpose the Board may prescribe.

Basis and method of valuation

22.—(1) Every valuer shall state the basis and method of valuation adopted and all assumptions used in arriving at the value of the property.

(2) The basis of valuation may, taking into account the scale of the exercise, include the state of the property market, cost of property and income receivable on the property.

(3) Where the valuer relies on any assumptions, he shall outline such assumptions and the reasons therefor.

(4) A valuer shall use and apply appropriate method of valuation which may include the—

(*a*) direct market comparative method in order to determine a market value;

(*b*) replacement cost or contractor's test method;

(*c*) income approach or investment method;

(*d*) profit method;

(*e*) discounted cash flows;

(*f*) residual method; and

(*g*) such other method as the Board shall approve.

(5) Where any method of valuation is utilized, the valuer shall explain the method, and shall substantiate with the data used in the valuation.

Access to property and information

23.—(1) A valuer may, for purposes of carrying out valuation under this Act—

(*a*) enter any property at all reasonable hours to inspect and carry out valuation activities without liability for trespass;

(*b*) obtain information from any owner or occupier of property to enable the valuer carry out functions under this Act; and

(*c*) inspect any document relating to property under valuation;

(2) Any person who, upon being informed or requested by the valuer of an intention to enter the property or seeking information relating to the property for purposes of performing valuation activities under this Act—

(*a*) refuses or fails to allow the valuer entry into or inspection of the property;

(*b*) fails or refuses to provide information requested by the valuer; or

(*c*) wilfully makes any false statement in reply to request for information,

commits an offence and shall, upon conviction, be liable, in case of an individual, to a fine of K1,000,000, and to imprisonment for twelve months, and in the case of body corporate, to a fine of K5,000,000.

Validity of valuation reports

24.—(1) A valuation report shall have indicated on it a validity period from the date of the valuation:

Provided that the Minister may prescribe specific periods of validity for specific valuation objectives.

(2) No person shall add or make improvements to premises which are subject of a valuation until the valuation is completed.

Certification of valuation reports

25.—(1) Every valuer shall, on completion of a valuation report, certify that such report is final and official by endorsing, in an appropriate place or places in the valuation report, with a stamp bearing his name, address, date and signature and, where applicable, the name of the firm where he is a partner or director.

(2) A valuation report shall not be valid unless certified in accordance with the subsection (1).

PART V—REGISTRATION AND LICENSING OF VALUERS

Prohibition of valuation practice without registration and a licence

26.—(1) No person shall provide valuation services, undertake or engage in a valuation practice, or in any business connected with the provision of valuation services or engage in a valuation transaction unless that person is registered and licensed as a valuer under this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable—

(*a*) in case of an individual, to a fine of K5,000,000, and to imprisonment for two years; or

(*b*) in the case of body corporate, to a fine of K10,000,000.

Qualifications and application and for registration to practice as a valuer

27.—(1) A person shall be eligible to be registered as a valuer under this Act if the person—

(*a*) holds a minimum qualification of a Bachelor's degree in real estate, or an equivalent qualification, obtained from university or institution recognized or accredited by the National Council for Higher Education; and

(*b*) has complied with such additional requirements, including the acquisition of practical experience in valuation, as may be prescribed by the Board.

(2) Any person who qualifies to practice as a valuer, or to perform the valuation services under this Act may make an application to the Board for registration.

(3) The application for a registration shall—

(*a*) be in the prescribed form accompanied with prescribed fees;

(*b*) in the case of a company, society, association or partnership be accompanied with a declaration that officers of the company,

society, association or partnership do not have any criminal record;

(*c*) where appropriate, be accompanied with the prescribed fee for examination; and

(*d*) be accompanied with evidence that the applicant is a citizen or has permanent residence in Malawi.

(4) A firm shall be eligible to be registered as a consulting firm of valuers if the firm—

(*a*) is incorporated or registered under the Companies Act or the Business Registration Act; and Cap. 46:03 Cap. 46:02

(*b*) has at least two practitioners of the firm registered and licensed as valuers under this Act.

(5) In addition to the qualifications in subsections (1) and (3), the Board shall require the applicant to satisfy the Board that his professional and general conduct render him fit and proper to be registered under this Act.

Categories of registration

28.—(1) The Board may register valuers as professional, graduate or technician valuers based on the qualifications stipulated in this section.

(2) The Board may register an applicant as a professional valuer if the applicant—

(*a*) is a citizen of Malawi or is permanently resident in Malawi;

(*b*) and satisfies the requirements for registration as a valuer prescribed under section 27;

(*c*) has at least two years of practical experience as a valuer; and

(*d*) passes examinations conducted by the Board.

(3) The Board may register an applicant as a graduate valuer if the applicant

(*a*) is a citizen of or is a permanent resident in Malawi; and

(*b*) holds at least a first degree in land economy, land management or estate management or equivalent qualification, with specialization in valuation, from a university or institution recognized or accredited by the National Council for Higher Education,

but does not have practical experience to be registered as a professional valuer under subsection (2).

(4) The Board may register an applicant as a technician valuer if the applicant—

(*a*) has a diploma in land economy or land management in valuation from a university or institution recognized or accredited by the National Council for Higher Education; and

(*b*) meets such additional requirements as the Board may prescribe.

(5) Every graduate or technician valuer shall work under the supervision of a professional valuer for at least two years, and during that period shall not sign or certify any valuation report in accordance with this Act.

Registration of temporary professional valuers

29.—(1) The Board may register as a temporary valuer any person who is not a citizen of, or is not permanently resident, in Malawi if—

(*a*) the person meets the requirements for registration as a professional valuer prescribed under section 27; and

(*b*) intends to be employed in Malawi as a valuer to carry out a specific valuation assignment for a period not exceeding one year.

(2) The registration of a temporary valuer under subsection (1) shall have effect only during the subsistence of the assignment, or the period the Board may set on registration, and shall expire on the termination of the assignment or expiry of the period specified by Board, as the case may be.

(3) Any valuer registered under this section shall be subject to the condition that he or she shall practice and carry out any assignment in partnership with a professional valuer who is registered and licensed under this Act.

Qualifications and application for licence to practice as a valuer

30.—(1) A person is eligible to be granted a licence to practice as a valuer if that person—

(*a*) is a registered valuer in accordance with section 28;

(*b*) has not been convicted of an offence, without the option of a fine;

(*c*) has a Tax Identification Number;

(*d*) has taken out a professional indemnity approved by the Board; and

(*e*) in the case of a company, society, association or partnership has designated at least one of its officers or partners as its representative for the purpose of obtaining the licence.

(2) Any person who qualifies to practice as a valuer, or to perform the valuation services under this Act may make an application for grant of licence.

(3) The application for a licence shall—

(*a*) be made to the Board in the prescribed form;

(*b*) be signed and supported with a statutory declaration by the applicant;

(*c*) in the case of a company, society, association or partnership be accompanied with a declaration that officers of the company, society, association or partnership do not have any criminal record;

(*d*) where appropriate, be accompanied with the prescribed fee for examinations; and

(*e*) be accompanied with evidence that the applicant is a citizen or has permanent residence in Malawi.

Grant of valuer's licence

31.—(1) The Board shall, where it is satisfied that the applicant has met all the requirements for registration and licensing under this Act, within thirty days from the date of receiving the application, issue the applicant with a practice licence.

(2) Every practice licence issued under subsection (1) shall be valid for one year, and may be renewed upon fulfilment of such requirements as may be prescribed, and upon payment of prescribed fees.

(3) The Board shall cause to be published annually in the *Gazette*, and in at least one newspaper of wide circulation, the names and addresses, and the categories of, valuers registered and licensed under this Act.

Refusal of application to register or issue licence

32.—(1) The Board may reject an application for registration or issuance of a licence as a valuer if the application is defective in a material particular, or the applicant provides false or misleading information or where the applicant has been guilty of professional misconduct.

(2) Where the Board rejects an application for registration or issuance of a licence, it shall, within a period of seven days of its decision, notify the applicant in writing giving reasons for the rejection.

(3) An applicant who is aggrieved by the decision of the Board may, within twenty-one days of receiving the notification of rejection under subsection (2), appeal to the Tribunal stating the grounds for the appeal.

(4) The Tribunal shall determine the appeal within thirty days of receipt of the appeal, and may upon review of the information

before it and any further information that it may request from the applicant or the Board, uphold, quash or vary the decision of the Board.

(5) The Tribunal shall, where it upholds, quashes or varies the decision of the Board, give necessary directions and communicate its decision to the parties.

Rights and privileges of valuers

33. A registered valuer who is granted a practice licence shall be entitled to carry out valuation practice for gain and may demand, sue and recover in any court any fees and expenses for valuation services rendered.

Disciplinary action against a valuer

34. The Board may caution, censure or suspend a valuer who after due inquiry is found guilty of professional misconduct contrary to the Act, or the code of ethics adopted under this Act.

Cancellation of registration or licence

35.—(1) The Board may cancel the registration or licence of any valuer if the valuer—

(*a*) requests that the registration as a valuer be discontinued;

(*b*) being a non-Malawi citizen or not being permanently resident in Malawi, has completed the assignment for which the registration or licence was obtained;

(*c*) is convicted of an offence of corrupt practices, tax evasion or any offence involving moral turpitude without the option of a fine;

(*d*) is declared bankrupt;

(*e*) has committed gross professional misconduct as determined by the Board; or

(*f*) is dead, or is by reason of any incapacity, unable to carry out valuation practice.

(2) Except in the case of death or where a valuer requests that registration or licence be cancelled, registration or licence shall only be cancelled where the Board issues a notice to the valuer to show cause why his registration or licence should not be cancelled and the valuer fails to do so.

Appeal against suspension or cancellation of registration or licence

36.—(1) A valuer who is aggrieved by the decision of the Board to suspend or cancel a registration under section 34 or cancel a registration under section 35 may, within thirty days from the date of such decision, appeal to the Tribunal, stating the grounds for the appeal, and the Tribunal shall determine the appeal within thirty days of receiving appeal or any further information the Tribunal may request from either of the parties.

(2) Where the Tribunal fails to determine the appeal within thirty days, the appellant may petition the High Court for an appropriate remedy.

PART VI—MISCELLANEOUS

Valuer not to act as agent for unregistered or unlicensed valuer

37. A valuer who permits his or her name to be used by an unregistered or unlicensed valuer or enables an unregistered valuer to appear, act or practice as a valuer or in any way assists or aids or abets any person to contravene this Act commits an offence and shall, on conviction, be liable to—

(*a*) in case of an individual, to a fine of K5,000,000 and to imprisonment for two years; or

(*b*) in the case of body corporate, to a fine of K10,000,000.

Restriction on use of title "valuer"

38. Any person who acts or holds himself out as a valuer or uses the style or title 'valuer' without registration and a licence, commits an offence and shall, upon conviction be, liable—

(*a*) in case of an individual, to a fine of K5,000,000, and to imprisonment of two years; or

(*b*) in the case of body corporate, to a fine of K10,000,000.

Valuation fees

39. The Board shall prescribe minimum fees for valuation services rendered in accordance with this Act.

Code of ethics

40.—(1) The Board shall develop and adopt a Code of Ethics for Valuers to regulate the practice and conduct of valuers.

(2) Without derogating from the generality of subsection (1), the Code of Ethics shall stipulate the procedures and guidelines of valuation practice and professional conduct and discipline of valuers in accordance with this Act.

(3) The Code of Conduct referred to in this section shall be published in the *Gazette*.

Negligence by valuer

41. A valuer who negligently misrepresents any data or information obtained in the course of valuation for compiling a valuation report, shall be personally liable for professional negligence arising from such misrepresentation:

Provided that no liability shall accrue against a valuer acting in good faith and applying his skills and knowledge.

Regulations

42.—(1) The Minister may, on the recommendation of the Board, make regulations for the better carrying out of the provisions of this Act.

(2) Without derogating from the generality of subsection (1), the Minister may make regulations prescribing—

(*a*) procedure for registration of individuals or firms under this Act;

(*b*) procedures for accessing property for valuation;

(*c*) procedures for assessing land and property rates under single and mass valuations;

(*d*) procedures for assessing crops and preparation of crop schedules and land values;

(*e*) forms for carrying out different valuations;

(*f*) procedures for carrying out compensation valuations;

(*g*) best practices, including guidelines for valuers' standards of care and skill; and

(*h*) any other matter in furtherance of the objects of this Act.

(2) Notwithstanding the provisions of section 21 (*e*) of the Cap. 1:01 General Interpretation Act, regulations made under subsection (1) may provide for offences the contravention of which may impose a penalty of—

(*a*) in case of an individual, a fine of K1,000,000, and to imprisonment of twelve months; or

(*b*) in the case of body corporate, a fine of K5,000,000.

Repeal, savings and transition Cap.58:08

43.—(1) The Land Economy Surveyors, Valuers, Estate Agents and Auctioneers Act is hereby repealed.

(2) Any subsidiary legislation made under the Land Economy Cap.58:08 Surveyors, Valuers, Estate Agents and Auctioneers Act, repealed by subsection (1), in force immediately before the commencement of this Act—

(*a*) shall remain in force, unless in conflict with this Act;

(*b*) shall be deemed to be subsidiary legislation made under this Act; and

(*c*) may be replaced, amended, revoked or repealed by subsidiary legislation made under this Act.

(3) A valuer who is registered and licensed under the Land Cap.58:08 Economy Surveyors, Valuers, Estate Agents and Auctioneers Act, repealed by subsection (1), shall continue to practice valuation as if registered and licensed under this Act until the licence expires.

SCHEDULE (s. 15)

OATH OF SECRECY

I,…….....…, being a member of the Board/member of a committee of the Board /having been invited to attend a meeting of the Board /a meeting of a committee of the Board, do swear/affirm that I will freely without fear or favour, affection, or ill-will discharge the functions of a member of the Board /member of a committee of the Board, and I will not, directly or indirectly, reveal any matter related to such functions to any unauthorized person or otherwise than in the course of duty. So help me God.

.....
Signature of the person making the oath [*or affirmation*]

Sworn [or affirmed] by the said ……...…

at …… this … day of ……, 20….

Before me:

……
Commissioner for Oaths

Passed in Parliament this sixteenth day of September, two thousand and twenty four.

FIONA KALEMBA
Clerk of Parliament