

Malawi

Background	Name of EMB:	Malawi Electoral Commission
	Status:	Permanent
	Number of commissioners:	Nine commissioners and the chairperson.
	Number of full-time EMB staff:	261
	Constitutional and/or legislative provisions for establishment of the EMB:	The EMB is established under Section 75 of the Constitution of the Republic of Malawi. Its functions are regulated by Electoral Commission Act No. 11 of 1998. In terms of the actual conduct of elections, it is guided by the Parliamentary and Presidential Elections Act No. 31 of 1993 and the Local Government Elections Act No. 24 of 1996.
EMB's mandate:	<p>The EMB is responsible for all national elections: presidential elections, parliamentary elections, local government elections, by-elections and referendum. Under Section 76 (2) of the constitution, duties and functions are as follows:</p> <ol style="list-style-type: none"> a. to determine constituency boundaries impartially on the basis of ensuring that constituencies contain approximately equal numbers of voters eligible to register, subject only to considerations of population density, ease of communication and geographical features, and existing administrative areas; b. to review existing constituency boundaries at intervals of not more than five years and alter them in accordance with the principles stated in (a) above; c. to determine electoral petitions and complaints related to the conduct of any elections; d. to ensure compliance with the provisions of the Constitution of the Republic of Malawi or an act of parliament; e. to perform such other functions as may be prescribed by the Constitution of the Republic of Malawi or an act of parliament. <p>Under the Electoral Commission Act, functions of the commission include:</p> <ol style="list-style-type: none"> f. to undertake or supervise the demarcation of wards; g. to organise and direct registration of voters; h. to devise and establish voters' registers and ballot papers; i. to establish and operate polling stations; 	
Establishment of the EMB		

		<p>j. to establish security conditions necessary for the conduct of every election in accordance with any written law governing elections;</p> <p>k. to promote public awareness of electoral matters through the media and other appropriate and effective means, and to conduct civic and voter education on such matters;</p> <p>l. to promote and conduct research into electoral matters and into any matter pertaining to its functions, and to publish the results of such research; and</p> <p>m. to take measures and to do such other things as are necessary for conducting free and fair elections.</p> <p>Independent</p>
	<p>EMB model:</p> <p>What standards are established in the constitution or other legislation for democratic legitimacy?</p>	<p>The Constitution mandates the EMB to promote the principle of equality voting power by ensuring that constituencies contain approximately equal numbers of voters eligible to register. The commission is also mandated to take all necessary measures to ensure free and fair elections and to conduct civic and voter education under the Electoral Commission Act.</p>
<p>Appointment, tenure and removals</p>	<p>Provisions for the appointment of commissioners:</p> <p>Political status of commissioners:</p> <p>Chair qualifications:</p> <p>Commissioner qualifications:</p> <p>Tenure of chair and commissioners:</p> <p>Provisions for the removal of commissioners:</p> <p>Provisions for the appointment of EMB senior staff:</p>	<p>Commissioners are appointed by the president in consultation with the leaders of political parties represented in the National Assembly. The chairperson is appointed following the recommendation of the Judicial Service Commission.</p> <p>Appointments based on political party affiliation.</p> <p>The Chairperson must be a judge.</p> <p>None</p> <p>Four years individually from the date of appointment for both chair and commissioners; can be re-appointed.</p> <p>A member of the EMB may be removed from office by the President on the recommendation of the Public Appointments Committee on the grounds of incapacity or incompetency in the performance of duties of that office.</p> <p>The EMB appoints the professional, technical, administrative and support staff through competitive interviews, directly or through reputable firms.</p>

	Tenure of EMB senior staff:	The Chief Elections Officer enters into a five-year contract, and the rest are on permanent terms retiring at 60 years.
	Provisions for the removal of EMB senior staff:	Senior members of staff are removed in line with procedures laid out in the conditions of service developed by the EMB.
Funding arrangements	Setting and control of EMB's budget:	The EMB budget is prepared by the EMB following a ceiling set by Treasury, and submits it to the Treasury. Once parliament appropriates, Treasury releases funds on a monthly basis to the EMB based on its resources; usually by the end of the year it has released less than the budgeted funds.
	Financial autonomy:	No, the EMB has to seek clearance from Treasury in line with the provisions of the Public Finance Management Act (PFMA).
	Legal provisions for financial autonomy:	The Constitution and the Electoral Commission Act gives independence to the EMB with regard to operations and decision on the conduct of elections, but no independence on financial operations.
Electoral system	Number of chambers/houses within the legislature:	Unicameral
	Voting system:	FPTP
	Amendments to electoral laws:	By the EMB following consultations with electoral stakeholders through the Ministry of Justice; Law Commission.
	Drafting of electoral regulations:	The EMB can draft regulations, but these can only come into effect once signed by the minister of justice.
Electoral disputes	Electoral dispute resolution mechanisms:	There are two forms, informal and formal. The informal arrangement involves use of the Multi-Party Liaison Committee (MPLC), established in each local council. Membership includes representatives of all contesting political parties, public officers whose function has a role in conflict management, traditional leaders and civil society organisations. The matters are adjudicated informally and determinations submitted to the EMB. Those not satisfied take matters to the formal arrangement, which has two levels. First the law provides that matters must be handled by the EMB, then, if unsatisfied, the aggrieved party may proceed to courts.

<p>Other issues:</p>	
<p>Secretariat</p>	<p>No, the EMB does not have the power to create, promote or abolish staff posts. It can only approach a relevant government department to carry out a functional review, after which the accepted changes would be effected.</p> <p>Three Commissioners and 17 Secretariat staff are women.</p> <p>Commissioners are structured at the top as policy-makers, while the Secretariat is headed by a CEO. The CEO is assisted by two deputies: one responsible for operations and another responsible for finance and administration. There are eight directorates:</p> <ol style="list-style-type: none"> 1. Electoral Services 2. Civic and Voter Education 3. Media and Public Relations 4. Information and Communication Technology 5. Finance 6. Audit 7. Administration and Finance 8. Legal <p>There are three regional offices headed by officers at the level of deputy director. There are at least two elections officers located at each of the 35 local council offices. There are 462 wards, 193 constituencies in 35 local councils.</p>
<p>Administrative autonomy:</p>	
<p>Women in senior positions:</p>	
<p>Administrative structure:</p>	