

MODEL CHARGES FOR WILDLIFE CRIME

Model charges and other reference documents for
prosecution of wildlife and forestry offences in Malawi



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PREFACE

This booklet has been compiled to provide model charges for wildlife crimes and related offences. It has been observed that in the recent past there has been an enormous increase in the number of wildlife crimes. This has resulted in the increased use of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi and related Statutes which contain most of the laws relating to wildlife management, conservation, and combating crime attendant thereto. It was further observed that most prosecutors have been having difficulties in framing proper charges in such cases. These observations have necessitated the compiling of this booklet to provide assistance as well as to standardize the framing of the charges for prosecutors and other stakeholders.

The booklet therefore provides model charges for offences provided in the National Parks and Wildlife Act, as well as for selected offences under the Forestry Act, the Firearms Act, the Penal Code, the Corrupt Practices Act, the Customs and Excise Act, the Financial Crimes Act, and the Immigration Act.

It should be pointed out that the drafting of a charge sheet requires a lot of care, attention, and often a great amount of skill. Prosecutors are therefore encouraged to follow this booklet as a guide only and where in doubt do proper consultations.

It should also be noted that notwithstanding the model charges provided in this booklet, the booklet is subject to the provisions of any Practice Directions that have been or may be issued by the Chief Justice in relation to framing of charges. Further, this booklet should be read in conjunction with sections 126, 127 and 128 of the Criminal Procedure and Evidence Code, Cap 8:01 of the Laws of Malawi, which lay out the rules for the framing of charges.

A quick perusal of the model charges in this booklet reveals that there may be several modes of committing a particular offence and these modes have been followed by the word 'choose applicable' to direct a prosecutor to choose only one of the several modes provided when intending to charge an accused. Failure to isolate only one mode leading to the insertion of two or more modes will result in the charge sheet being defective in form. Prosecutors are therefore warned to be extra careful when dealing with a model charge sheet that provide for multiple modes of committing an offence.

It is hoped that this booklet will greatly help to prevent the presentation of a defective charge sheets in relation to wildlife and related offences before the courts.

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ACKNOWLEDGEMENTS

The production of this "Model Charge Sheet Booklet for Wildlife Crimes and related offences" was coordinated by the Malawi Police Service (Service Prosecution Branch) and the Lilongwe Wildlife Trust, a local non-governmental organization (NGO) committed to combating Wildlife Crime in Malawi by working in partnership and providing support to Law Enforcement Agencies such as the Malawi Police Service.

The Malawi Police Service, the Department of National Parks and Wildlife and the Lilongwe Wildlife Trust would like to extend their gratitude to Dr. George Kainja, the Inspector General of the Malawi Police service, Mr. Nepier Thomson Chafikana, the former Director for prosecutions at the Malawi Police service, Erica Lyman and Nick Fromherz respectively Clinical Professor and Senior Staff attorney at Global Law Alliance for Animals and the Environment Lewis & Clark Law School, and Counsel Arthur Nyirenda, Legal Advisor and Prosecutor at Lilongwe Wildlife Trust for the overall leadership and quality control of this Model Charge Sheet Project".

Special thanks should also go to the following prosecutors for their untiring efforts to bring this booklet into existence; Superintendent Patrisio Mikael Filimoni (SPO-Mzimba Police station), Assistant Superintendent Saddy Sambo (SPO-Mchinji Police Station), Counsel Assistant Superintendent Charles Panyani Phiri (Headquarters Prosecutions Registry), Sub-Inspector Wezzie Banda Mvula (Secretary to the Director for Police Prosecutions), Counsel Assistant Superintendent Louis Makiyi (Eastern Region Prosecutions Registry), Sub-Inspector John Kamphani (Central Region Prosecutions Registry) and Sergeant Christina Ning'ang'a (Prosecutor, Chiromo Police Post).

The Malawi Police Service gives special thanks to the Lilongwe Wildlife Trust for the financial support they provided to make the process of developing this booklet possible.

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INTRODUCTION

Section 4 (1) (b) of the Police Act Cap 13:01 of the Laws of Malawi provides one of the functions of the Malawi Police Service as apprehension and prosecution of offenders. The prosecution branch is assigned the task of conducting criminal proceedings against someone in respect of a criminal offence.

Recently there has been an upsurge in Wildlife and related offences. This has resulted in the increased use of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi and related Statutes which contain most of the laws relating to wildlife management and conservation.

Prosecutors have been facing challenges in dealing with Wildlife cases mainly because many police formations do not have the relevant Acts of Parliament. Secondly some prosecutors face challenges in identifying the offences in the Acts. Lastly and more importantly, many prosecutors have difficulties in drafting proper charges for offences of this kind.

Having these challenges in mind we thought of coming up with this model draft charge for offences relating to Wildlife. The booklet contains model draft charges from the following Acts of Parliament: the National Parks and Wildlife Act, the Forestry Act, the Firearms Act, the Penal Code, the Corrupt Practices Act, the Customs and Excise Act, the Financial Crimes Act, and the Immigration Act.

Note on Mens Rea

Many of the offenses included in this document, as a matter of explicit statutory language, require a showing of prohibited conduct (*actus reus*) with a certain mental state (*mens rea*).¹ For example, section 15(c) of the National Parks and Wildlife Act makes it a crime to “willfully or recklessly give[] to any officer false or misleading information which the officer is entitled to obtain under this Act.” The inclusion of “willfully or recklessly” means that the offense is not established unless the defendant knew or should have known that the information was false or misleading.² On the other hand, many of the

offenses do not explicitly require *mens rea* (i.e., the statutory text is silent on the matter). For instance, section 86(1) of the National Parks and Wildlife Act makes it an offense to “posses . . . any specimen of a game species, protected species, endangered species or listed species” unless the person in possession holds a valid certification of ownership. The statute by itself does not clarify whether the person must have known that he or she was in possession of such a specimen. This contrast raises an interpretive question: Does statutory silence mean that *mens rea* is not an element of the offense? Or is *mens rea* implicitly required as a matter of law regardless of statutory silence?

It does not appear that Malawi’s courts have squarely addressed this issue in the context of criminal wildlife offenses. However, based upon judicial statements in other contexts—and in light of associated principles like the rule of lenity and practices in other Anglo-American jurisdictions—it appears likely that Malawi courts would hold that *mens rea* is an element of most criminal wildlife offenses, regardless of statutory silence.

In *The Republic v. Nankhope*, Confirmation Case No. 318 of 2000 (May 12, 2000), the High Court of Malawi addressed the *mens rea* question in a case involving attempted theft. In reversing the conviction, the Court wrote as follows:

*“The facts the lower court accepted scarcely establish theft or an attempted theft. Our criminal law has been based on two distinct concepts of English Criminal Law. A crime is generally created and proved on proof of the twin components of a state of mind and an actual act. Actus non facit reum nisi mens sit rea. Despite statutory inroads on grounds of public policy on the mental element requirement, criminal law favour[s] existence of the mental element and an act for creation and proof of a crime.”*³

damage the complainant’s shirt.”). See also American Law Institute, MODEL PENAL CODE, § 2.02(c) (describing the dominant understanding of the word “recklessly” in U.S. criminal law) (“A person acts recklessly with respect to a material element of an offense when he consciously disregards a substantial and unjustifiable risk that the material element exists or will result from his conduct. The risk must be of such a nature and degree that, considering the nature and purpose of the actor’s conduct and the circumstances known to him, its disregard involves a gross deviation from the standard of conduct that a law-abiding person would observe in the actor’s situation.”); Lewis Chezen Bande, CRIMINAL LAW IN MALAWI 197–98 (Juta and Co. Ltd 2017) (discussing the meaning of “recklessness”).

³ *The Republic v. Nankhope*, Confirmation Case No. 318 of 2000 (May 12, 2000).

This and other language in the *Nankhope* case strongly suggest that offenses bearing criminal consequences (including, most obviously, imprisonment) presumptively require proof of *mens rea*, even if the statutory language is silent on the matter.⁴

This conclusion is further bolstered by section 9 of the Penal Code, which provides in part as follows:

*“Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.”*⁵

Although technically limited to the Penal Code, this clause comports with the basic notion that crimes generally require *mens rea*.

That said, the analysis is potentially complicated by the possibility of a differing approach for “public welfare” offenses. In some Anglo-American jurisdictions, strict liability (a.k.a. “absolute liability”) is occasionally embraced for “public welfare” offenses and other regulatory crimes.⁶ Thus, it is possible that Malawi’s courts may eventually hold some of the offenses covered in the present document to be strict liability offenses (i.e., offenses that do not require *mens rea*) on the grounds that they are special offenses and that the legislature intended to create a strict liability regime.⁷

In the absence of a controlling judicial decision, however, the best practice for police and prosecutors is to assume that *mens rea* is required for all offenses covered in this booklet. Thus, for example, in the case of a charge of unlawful possession under section 86(1) of the

⁴ This conclusion is further bolstered by the High Court’s approving quotation, in *The Republic v. Nankhope*, Confirmation Case No. 318 of 2000 (May 12, 2000), of *Sweet v. Parsley*, [1970] A.C. 132, 149. The *Sweet v. Parsley* court held as follows: “It is firmly established by a host of authorities that *mens rea* is an essential ingredient of every offence unless some reason can be found for holding that it is not necessary. It is also firmly established that the fact that other sections of the Act expressly require *mens rea*, for example because they contain the word ‘knowingly,’ is not in itself sufficient to justify a decision that a section which is relevant as to *mens rea* creates an absolute offence.”

⁵ Penal Code, § 9(1).

⁶ See generally Laurie L. Levenson, *Good Faith Defenses: Reshaping Strict Liability Crimes*, 78 CORNELL L. REV. 401 (1993) (discussing the history of strict liability crimes in the U.S. and England, including for “public welfare” offenses, such as the sale of adulterated food and drugs); see also *Philman’s, Inc. v. City of West Carrollton*, 577 F. Supp. 1380 (S.D. Ohio 1983) (noting that strict liability offenses, in a criminal or quasi-criminal context, do not contravene any provision of the U.S. Constitution).

⁷ See, e.g., *People v. Quinn*, 440 Mich. 178 (1992) (treating the issue as a matter of statutory construction).

National Parks and Wildlife Act, police and prosecutors should make efforts to establish that the defendant knew he was in possession of a specimen.⁸ This should not be seen as a major burden. If the specimen was found in the defendant’s house, for instance, common sense suggests that, absent extraordinary circumstances, the defendant was likely aware of the specimen’s presence. A police or other witness statement describing the house and the defendant’s relationship to the house should suffice to establish the necessary level of *mens rea* in such a case.⁹

Note on Analysing Elements and Matching Evidence

Criminal offenses contain multiple elements, each of which must be established through admissible evidence. For instance, to establish a violation of section 15(c) of the National Parks and Wildlife Act, the State must prove three basic elements: (1) that the defendant gave false or misleading information; (2) to an officer entitled to receive such information; and (3) the defendant did so wilfully or recklessly. These elements are derived directly from a careful reading of the statutory text.

⁸ See Lewis Chezen Bande, CRIMINAL LAW IN MALAWI 159 (discussing the role of knowledge in criminal possession).

⁹ In addition to *mens rea*, prosecutors handling possession cases must pay attention to the unique nature of the *actus reus* pertaining to possession offenses. As Professor Lewis Chezen Bande has explained, “possession” has “several meanings” in the law. Professor Bonde has described these meanings as follows:

Firstly, possession means having something in one’s actual custody or control. This is the case when, for instance, a person has something in his or her pockets, or is carrying something in his or her hands. This is the most straightforward way of having possession. Here, possession simply means ‘custody’. Secondly, a person is said to be in possession of a thing when that thing is in the possession of another person and that other person possesses the thing for the use or benefit of the first person. For instance, X gives Y a book to keep for him whilst he is away. X will be said to be in possession of that book, even though actual custody of the book was with Y. Thirdly, a person is also said to be in possession of a thing when he keeps it in any place (whether that place belongs to him or not) for his own benefit or use. Hence, people are said to be in possession of the things that they keep in their houses or offices.

Lewis Chezen Bande, CRIMINAL LAW IN MALAWI 159 (Juta and Co. Ltd 2017). This formulation is made explicit in section 4 of the Penal Code, which provides as follows:

“[P]ossession”, “be in possession of” or “have in possession” includes not only having in one’s own personal possession, but also knowingly having anything in the actual possession or custody of any other person, or having anything in any place (whether belonging to, or occupied by oneself or not) for the use or benefit of oneself or of any other person; and if there are two or more persons and any one or more of them with the knowledge and consent of the rest has or have anything in his or their custody or possession, it shall be deemed and taken to be in the custody and possession of each and all of them[.]

The concept is simple enough on its face, but investigators and prosecutors pressed for time can easily overlook elements in the rush to initiate a case. To ensure that the facts fit the charges under consideration, prosecutors should (a) map out the elements of the charges, and (b) identify corresponding evidence. Prosecutors should do this in the early stages of the investigation—revisiting the analysis as other evidence comes to light—and in all instances prior to filing charges in court.

To regularize the process, prosecutors should consider using a simple table, an example of which is provided immediately below in the context of a hypothetical charge for giving false or misleading information in violation of section 15(c) of the National Parks and Wildlife Act. This exercise is not meant to be onerous, nor is it meant to substitute for deeper analysis. Instead,

it is meant to encourage a double-check of the elements and available evidence prior to bringing charges.

Note on Attempts

In Malawi, as in most Anglo-American jurisdictions, special considerations apply to inchoate crimes, including attempts. Under section 400 of the Penal Code, an attempt is defined as follows:

When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit

the offence, he is deemed to attempt to commit the offence.¹⁰

This formulation requires both *mens rea* (here, intent) and *actus reus* (here, an “overt act”).

According to the High Court of Malawi in *The Republic v. Nankhope*, Confirmation Case No. 318 of 2000, an “overt act” is one that goes beyond mere “preparatory acts.” Rather, “the overt act must be such that it points to an act that constitutes the crime.”¹¹ Thus, for instance, if a defendant thrusts his hand into another person’s pocket, that would suffice as an overt act sufficient to constitute attempted theft.

In the wildlife trafficking context, the “overt act” element will require careful analysis in some cases. A hypothetical situation illustrates the point. If a defendant is caught at Kamuzu Airport while boarding an international flight with an African civet (*Civetictis civetta*) hidden in his suitcase, the defendant would clearly be liable for attempted export of an endangered species in violation of section 98 of the National Parks and Wildlife Act. On the other hand, if the defendant had merely possessed the civet *at his home* and *was considering* the purchase of an airplane ticket, that would likely not suffice to establish attempted export (though the defendant could well be guilty of another crime). In between these two scenarios, there a range of situations that would require careful consideration of the “overt act” requirement.

Note, however, that these are just examples. There are no bright-line rules. Identifying the necessary overt act is “always a question of fact”¹² and will vary greatly from case to case. Fundamentally, the “overt act” requirement is meant to ensure that individuals are not prosecuted for merely *contemplating* crime or even for taking some *preparatory* actions, but instead for *attempting* or *trying* to commit a crime.

Note on Conspiracies

Special considerations also apply to conspiracies. Although the Penal Code classifies as crimes conspiracy to commit a felony (section 404), conspiracy to commit a misdemeanour (section 405), and other conspiracies (section 406), it does not define the term “conspiracy.” Nevertheless, under well-established case law, a conspiracy is an agreement where two or more people agree to carry out a crime or criminal scheme.¹³

In many jurisdictions, especially in the United States, an agreement alone is often not enough. Rather, there must also be an *actus reus* beyond the agreement itself—an “overt act” or “substantial step” in furtherance of the conspiracy.¹⁴ In England, this additional element is not required.¹⁵ Malawi appears to follow the English rule. As the Malawi High Court explained in *The Director of Public Prosecutions v. Dr. Hastings Kamuzu Banda, et al.*, a conspiracy is “complete as soon as the agreement was reached.”¹⁶ That being said, acts in furtherance of a conspiracy retain important evidentiary value; even if not required as an element of the crime, an overt act can stand as powerful proof that an agreement exists. For example, if the charge is that Individual A and Individual B conspired to illegally export a specimen of a listed species via passenger airplane, evidence that Individual A purchased a plane ticket for Individual B would strongly suggest the existence of a criminal agreement between Individual A and Individual B.

As regards *mens rea*, conspiracy requires knowing participation in the conspiracy. As the Malawi High Court explained in *The Director of Public Prosecutions v. Dr. Hastings Kamuzu Banda, et al.*, the accused “[m]ust actually know about the conspiracy, not simply take acts in furtherance of an agreement unknown to her.”¹⁷ Thus, a person who unknowingly assists a conspiracy—acting, in essence, as an unwitting instrument—cannot be charged as a co-conspirator.

**Sample elements & Evidence Table:
Section 15(c) of the National Parks and Wildlife Act**

Element	Examples of Evidence
(1) defendant gave false or misleading information	<ul style="list-style-type: none"> • police report of encounter with notes of defendant’s false or misleading statement (if given in oral form) • copy of document containing false or misleading information (if given in written form) • officer statement regarding false or misleading nature of information
(2) to an officer entitled to receive such information	<ul style="list-style-type: none"> • police report of encounter • officer statement
(3) defendant did so wilfully or recklessly	<ul style="list-style-type: none"> • Evidence suggesting defendant knew or should have known that he/she was giving false or misleading information. • In many cases, this evidence will be circumstantial. • For instance, in a case involving a false report of the number of specimens captured, the defendant’s statement in contradiction of the physical evidence will by itself imply a wilful or reckless state of mind. Thus, if the defendant stated that he/she had captured a certain number of specimens permitted by a hunting license, but officers found a higher number under the defendant’s control, this would qualify as evidence of wilfully or recklessly providing false information.

¹³ See *The Director of Public Prosecutions v. Dr. Hastings Kamuzu Banda, et al.*, MSCA Criminal Appeal No. 21 of 1995; see also *Mulcahy v. The Queen* (1868) L.R. 3 H.L. 306; *R v Warburton* (1870) L.R. 1 C.C.R. 274; *R v. Tibbits and Windust* [1902] 1 K.B. 77 at 89; *R v. Meyrick and Ribuffi*, 21 Cr.App.R. 94, CCA.

¹⁴ Note, however, that the requirement of an overt act is not universal in the United States. For instance, while the general federal criminal conspiracy statute requires an overt act, the federal drug conspiracy statute does not. *United States v. Shabani*, 513 U.S. 10 (1994).

¹⁵ *O’Connell v. R.* (1844) 5 St.Tr.(N.S.) 1; Criminal Law Act 1977, § 1.

¹⁶ *The Director of Public Prosecutions v. Dr. Hastings Kamuzu Banda, et al.*, MSCA Criminal Appeal No. 21 of 1995

¹⁷ *Id.*

¹⁰ Penal Code, § 400 (emphasis added).

¹¹ *The Republic v. Nankhope*, Confirmation Case No. 318 of 2000 (May 12, 2000).

¹² *Id.*

On the other hand, individuals who later knowingly join an existing agreement are just as guilty of conspiracy as the original conspirators.¹⁸ To illustrate the difference, imagine a case involving three individuals who made an oral agreement to traffic elephant ivory from Malawi to Mozambique. Following this initial agreement, the three conspirators recruited a fourth individual to assist with the logistics of transporting the ivory across the border. If the fourth individual did not realize he was being asked to transport ivory (e.g., if the ivory was cleverly hidden among other cargo), it would be impossible to charge him with conspiracy. If, on the other hand, the fourth individual knew he was transporting ivory and doing so in furtherance of a pre-existing conspiracy, that individual would be just as guilty as the three original conspirators, in addition to his guilt of any other crimes (e.g., attempted unlawful export).

¹⁸ A portion of the Court's reasoning in *The Director of Public Prosecutions v. Dr. Hastings Kamuzu Banda, et al.*, MSCA Criminal Appeal No. 21 of 1995, hinged on this distinction. The Court wrote as follows: "In our view, none of the police officers who followed orders without any knowledge of the existing conspiracy to kill the four victims could be said to be a conspirator to the original conspiracy. In our view, an element of knowledge of the existence of the conspiracy is required for any person who does an act, which is deemed to be part of the performance of the conspiracy to be said to be one of the conspirators." *Id.*

MODEL CHARGES

SUMMARY TABLE

MAIN OFFENCES UNDER NATIONAL PARKS AND WILDLIFE ACT

Offence Any person who...	Section	Penalty Range	MD Page NB
OBSTRUCTION OF OFFICERS			
Obstructing / Refusing to furnish information or particulars / Willfully or recklessly giving false or misleading information to an officer	15 A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	29
Failing to comply with a directive or instruction of the Director – or any officer acting on behalf of the Director – in the management of a protected area	30 (3) A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	30
PROHIBITED ACTS IN A PROTECTED AREA			
ILLEGAL ENTERING			
Entering / Residing / Attempting to enter / Attempting to reside in a protected area without a permit	32 (1) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	30

Offence Any person who...	Section	Penalty Range	MD Page NB
WASTE AND POLLUTION			
Discarding or depositing litter or waste in a protected area	34 A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	31
FIRE			
Starting / Maintaining a fire in a protected area without authority	38 A/R with 110A (d)	Statutory penalty provision: K15,000,000 fine and 30-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3-year imprisonment	37
HUNTING, TAKING....			
Conveying a weapon into a protected area	33 (1) A/R with 110A (d)	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	31
Hunting / Taking / Killing / Injuring / Disturbing a domestic animal or cultivated plant lawfully present from/in a protected area without a valid license	35(a) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	31

Offence Any person who...	Section	Penalty Range	MD Page NB
Hunting / Disturbing a wild plant or animal in a protected area without a valid license	35(a) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	31
Taking / Killing / Injuring a wild plant or animal in a protected area without a valid license	Protected species	35(a) A/R with 110 (a) Statutory penalty provision: K5,000,000 fine and 10 year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K500,000 fine and 15 months imprisonment	31
	Endangered species	35(a) A/R with 110A (a) Statutory penalty provision: K15,000,000 fine and 30-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3 year imprisonment; provided that the fine is not less than the value of the seized item	31
	Listed species	35(a) A/R with 110B (a) Statutory penalty provision: 30-year imprisonment; no option of a fine Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): 6 year imprisonment; no option of a fine	31

Offence Any person who...	Section	Penalty Range	MD Page NB
OTHER PROHIBITED ACTS IN A PROTECTED AREA			
Taking / Destroying / Damaging / Defacing an object of geomorphological, archaeological, historical, cultural, or scientific interest OR a structure lawfully placed or constructed in/from a protected area without a valid licence	35 (b) A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	33
Preparing land for cultivation or settlements/ Prospecting for minerals / Mining in a protected area without a valid licence. Attempting to prepare land for cultivation or settlement / Attempting to prospect for minerals/ Attempting to mine ...	35 (c) A/R with 110A (d)	Statutory penalty provision: K15,000,000 fine and 30-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3-year imprisonment	34
Driving / Conveying / Introducing a wild animal into a protected area	35 (d) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	35
Driving / Conveying / Introducing a domestic animal / Permitting a domestic animal to stray into a protected area	35 (e) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	36

Offence Any person who...	Section	Penalty Range	MD Page NB	
Conveying / Introducing a plant into a protected area	37 (1) A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	37	
PROTECTED SPECIES				
Hunting /Taking a protected, endangered, listed species without a valid licence or permit	Protected species	47 (1) A/R with 110 (a)	Statutory penalty provision: K5,000,000 fine and 10-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K500,000 fine and 15 months' imprisonment	39
	Endangered species	47 (1) A/R with 110 A (a)	Statutory penalty provision: K15,000,000 fine and 30-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3 year imprisonment; provided that the fine is not less than the value of the seized item	39
	Listed species	47 (1) A/R with 110 B (a)	Statutory penalty provision: 30-year imprisonment; no option of a fine Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): 6 year imprisonment; no option of a fine	39

Offence Any person who...	Section	Penalty Range	MD Page NB
Illegal transferring of a licence or permit	49 A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	40
Failing to carry a licence during hunting or taking an animal OR while taking a plant Failing to produce a licence for inspection by an officer Failing to keep a true record in the prescribed form of all game species hunted or taken during validity of the licence	60 (1) and (2) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	40
Causing a fire for purposes of hunting (or assisting another to hunt) a wild animal/taking (or assisting another to take) a wild animal or plant	64 A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	41

Offence Any person who...	Section	Penalty Range	MD Page NB
For the purpose of or in connection with hunting or taking a protected/endangered/listed species, possessing/preparing/making/buying/selling/using a poison, birdlime, trap, net, snare or similar substance or device capable of killing, capturing or wounding a protected/endangered/listed species without licence	66 (1) (a) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4 year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	46
Making/preparing/using an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any protected/endangered/listed species without licence	66 (1) (b) A/R with 108	Statutory penalty provision: K2,000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	47
Failing to report accidental killing or killing by error of a protected, endangered, or listed species Failing to surrender carcass or parts thereof of a protected, endangered, or listed species, following accidental or erroneous killing	78 (3) A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	52
Willfully molesting or provoking a wild animal in a manner which results – or is likely to result -in its destruction/provocation or harassment, without just excuse or cause	82 (a) and (b) A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	53

Offence Any person who...	Section	Penalty Range	MD Page NB
Causing unnecessary or undue suffering to a wild animal whether the animal lives in the wild or is being kept in captivity	83 A/R with 108	Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	54
COMMERCE RELATED TO WILDLIFE			
Possessing / buying / selling / transferring / receiving in transfer (or attempt to possess, buy, sell, transfer or receive in transfer) a specimen of a game/protected/endangered/ listed species without a license or authorization	Game species	86 (1) A/R with 109 (b) Statutory penalty provision: K2, 000,000 fine and 4-year imprisonment Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K50,000 fine and 1 year imprisonment	54-58
	Protected species	86 (1) A/R with 110 (b) Statutory penalty provision: K5,000,000 fine and 10-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K500,000 fine and 15 months' imprisonment	54-58

Offence Any person who...	Section	Penalty Range	MD Page NB
	Endangered species	86 (1) A/R with 110 A (b) Statutory penalty provision: K15,000,000 fine and 30-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3 year imprisonment; provided that the fine is not less than the value of the seized item	54-58
	Listed species	86 (1) A/R with 110 B (b) Statutory penalty provision: 30-year imprisonment; no option of a fine Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): 6 year imprisonment; no option of a fine	54-58
Possessing / Purporting to buy / Purporting to sell / Unlawful transfer of government trophy* *see definition of government trophy into section 90 of the NPWA. **into particulars of offence describe from which species and species category (protected/endangered/listed)	Protected species	91 (1) A/R with 110 (b) Statutory penalty provision: K5,000,000 fine and 10-year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K500,000 fine and 15 months' imprisonment	60-61

Offence Any person who...	Section	Penalty Range	MD Page NB
	Endangered species	91 (1) A/R with 110 A (b) Statutory penalty provision: K15,000,000 fine and 30 year imprisonment; provided that the fine is not less than the value of the specimen involved in the commission of the offence Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): K2,000,000 fine and 3 year imprisonment; provided that the fine is not less than the value of the seized item	60-61
	Listed species	91 (1) A/R with 110 B (b) Statutory penalty provision: 30-year imprisonment; no option of a fine Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): 6 year imprisonment; no option of a fine	60-61
Importing / Exporting or re-exporting a specimen of a protected/ endangered/listed species without passing through a customs post or port Importing/ Exporting or re-exporting a specimen of a protected / endangered/listed species without producing to a customs officer a valid permit to import	98 (a) and (b) A/R with 111	Statutory penalty provision: 30-year imprisonment; no option of a fine Starting point per Sentencing Guidelines (sentence can go below/above according to mitigating/aggravating factors): 6 year imprisonment; no option of a fine	62
FORFEITURE & COMPENSATION			
In addition to other penalty imposed, where it considers forfeiture necessary, the court shall declare any specimen, domestic animal, firearm or any other weapon, trap, net, poison, material or any motor vehicle, aircraft, boat, or any other article taken by or used in connection with the commission of the offence to be forfeited to the Government.			

SUMMARY TABLE MAIN OFFENCES UNDER THE FORESTRY ACT

Offence Any person who...	MAX. PRISON SENTENCE	MAX. FINE	Sect	Statutory Penalty	MD Page NB
DEFORESTATION & ENCROACHMENT					
Fells, cuts, takes, destroys, removes, collects, or uproots any tree and other vegetation;	10 years	MK5 million	46(a) A/R with 64.1 (a), 64.2	K5,000,000 fine and 10 year imprisonment ; any crop, structure or equipment involved in the commission of the offence shall be confiscated and forfeited	66-67
Squats, resides, erects a building, hut, livestock enclosures, or structure;			46(d) A/R with 64.1(c), 64.2	K5,000,000 fine and 10 year imprisonment ; any crop, structure or equipment involved in the commission of the offence shall be confiscated and forfeited	68
Grazes livestock, cultivates crops, clears, digs, or breaks up land for any road or for any purpose whatsoever;			46(b) A/R with 64.1(d), 64.2	K5,000,000 fine and 10 year imprisonment ; any crop, structure or equipment involved in the commission of the offence shall be confiscated and forfeited	68
Connives with or causes another person to fell/cut/take/destroy/remove/collect/uproot any tree and other vegetation or forest property	15 years	MK10 million	64.1 (b), 64.2	K10,000,000 fine and 15 year imprisonment ; any crop, structure or equipment involved in the commission of the offence shall be confiscated and forfeited	68
TRAFFICKING & TRADE OF FOREST PRODUCTS					
Knowingly received forest produce illegally; is found in possession of forest produce without a permit; trafficks in forest produce without a licence or permit.	10 years	MK5 million	68 (1) and (2)	K5,000,000 fine and 10 year imprisonment	70
Engages in the production, possession, trafficking or sale of charcoal without a licence or permit.			68 (3)(a)	K5,000,000 fine and 10 year imprisonment	71

Offence Any person who...	MAX. PRISON SENTENCE	MAX. FINE	Sect	Statutory Penalty	MD Page NB
Possesses, trafficks or sells round wood without a licence or permit.	20 years	MK10 million	68 (3)(b)	K10,000,000 fine and 20 year imprisonment	71
Imports, exports, re-exports, or attempts to import, export or re-export any forest produce through any place other than a custom's post or port; or without producing to a customs officer a valid licence.	15 years		73	K10,000,000 fine and no less than a 15 year imprisonment	73
OBSTRUCTION OF JUSTICE					
Obstructs/hinders any officer in the performance of his functions under this Act; bribes; withholds information; Refuses to furnish to any officer on request, particulars or information which the officer is entitled to obtain.	5 years	MK2 million	69	K2,000,000 fine and 5 year imprisonment	71
FALSIFICATION OF DOCUMENTS					
Counterfeits or alters any licence, permit, pass or prescribed document; falsely marks any forest produce.	10 years	MK5 million	70	K5,000,000 fine and 10 year imprisonment	72

Offence Any person who...	MAX. PRISON SENTENCE	MAX. FINE	Sect	Statutory Penalty	MD Page NB
FIRE					
Lights a fire in a forest reserve, protected forest area, or village forest area.	20 years	No option of a fine	39(1) and (3) A/R with 65(1)	20 years imprisonment; no option of a fine	65
Failing to take necessary precautions to prevent a fire from escaping control contrary to section 39(4) as read with section 65(2) - Max prison sentence 10 years - no option of fine	10 years		39(4) A/R with 65(2)	10 years imprisonment ; no option of a fine Liable for any damage to the forest reserve, protected forest area or village forest area caused by such failure	65
POACHING OF WILD ANIMALS					
Hunts, pursues, kills, molests, captures or injures any animal, bird, fish, or reptile; or collects eggs or spawns from a forest reserve, a protected forest area or a village area.	10 years	MK5 million	66 (a) and (b)	K5,000,000 fine and 10 year imprisonment	69-70
Conveying/possessing/using a weapon (or trap, explosive, poison) in a forest reserve or a protected forest area.			43(1) A/R with 71(1)	K5,000,000 fine and 10 year imprisonment	65-66
PESTS & DISEASES					
Introduction of forest pests and diseases.	5 years	MK2 million	43(1) with 67	K2,000,000 fine and 5 year imprisonment	
WASTE & POLLUTION					
Deposits litter or noxious waste in a forest reserve, a protected forest area or a village area without a license.	10 years Plus cost of clean-up	MK2 million Plus cost of clean-up	44 A/R with 72	K5,000,000 fine and 10 year imprisonment ; plus cost of removal	66

Offence Any person who...	MAX. PRISON SENTENCE	MAX. FINE	Sect	Statutory Penalty	MD Page NB
FORFEITURE & COMPENSATION					
Forfeiture of seized products to the Government; Compensation paid for any damage or loss relating to offence; Payment of ten times the amount of any associated royalties or fees; Demolition/removal of any illegal structure or crop in contravention of this Act.					
All decisions directed by the Minister of Natural Resources.					

CHAPTER ONE

OFFENCES UNDER THE NATIONAL PARKS AND WILDLIFE ACT

SECTION 15 (a) OF THE NATIONAL PARKS AND WILDLIFE ACT

Obstructing / Refusing to furnish information or particulars / Willfully or recklessly giving false or misleading information to an officer

STATEMENT OF OFFENCE

Obstructing an officer contrary to section 15(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, obstructed [name of officer, along with title], who is an officer of [name agency], in the performance of [his/her] [specify functions obstructed] by [specify obstructive action taken].

SECTION 15 (b) OF THE NATIONAL PARKS AND WILDLIFE ACT

Obstructing / Refusing to furnish information or particulars / Willfully or recklessly giving false or misleading information to an officer

STATEMENT OF OFFENCE

Refusing to furnish information or particulars to an officer contrary to section 15(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, refused to furnish [particulars/information—choose applicable] relating to [describe the topic(s)] to [name of officer, along with title] to

which [he/she] was entitled by virtue of [him/her] being an officer under the Act.

SECTION 15 (c) OF THE NATIONAL PARKS AND WILDLIFE ACT

Obstructing / Refusing to furnish information or particulars / Willfully or recklessly giving false or misleading information to an officer

STATEMENT OF OFFENCE

Willfully or recklessly giving false or misleading information to an officer contrary to section 15(c) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [willfully/recklessly—choose applicable] gave [false/misleading—choose applicable] information relating to [describe the situation investigated by the officer] to [name of officer, along with title], an officer who was entitled to obtain such information in performance of [his/her] functions.

SECTION 16 (a) OF THE NATIONAL PARKS AND WILDLIFE ACT

Altering, defacing, or removing official records

STATEMENT OF OFFENCE

Altering, defacing, or removing official records contrary to section 16 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [altered/defaced/removed—choose applicable] [name of record], which is an official record under the Act.

SECTION 16 (b) OF THE NATIONAL PARKS AND WILDLIFE ACT

Altering or defacing a prescribed document

STATEMENT OF OFFENCE

Altering or defacing a prescribed document contrary to section 16 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [altered/defaced—choose applicable] [name of document], which is a prescribed document under the Act.

SECTION 30 (3) OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to comply with a directive or instruction of the Director – or any officer acting on behalf of the director – in the management of a protected area

STATEMENT OF OFFENCE

Failing to comply with a directive or instruction of the Director contrary to section 30 (3) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to comply with directive or instruction from [name of Director or officer duly authorized] who is [describe position of officer] that [specify the directive or instruction given].

SECTION 32 (1) OF THE NATIONAL PARKS AND WILDLIFE ACT

Entering / Residing / Attempting to enter / Attempting to reside into a protected area without a permit

STATEMENT OF OFFENCE

Entering into a protected area without a permit contrary to section 32(1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being an exempted person under the Act, entered into [name the protected area], a protected area without permit.

STATEMENT OF OFFENCE

Residing in a protected area without a permit contrary to section 32(1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being an exempted person under the Act, resided in [name the protected area], a protected area without a permit.

STATEMENT OF OFFENCE

Attempting to reside in a protected area without a permit contrary to section 32(1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being an exempted person under the Act, attempted to reside in [name the protected area], a protected area without a permit.

STATEMENT OF OFFENCE

Attempting to enter into a protected area without a permit contrary to section 32 (1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being an exempted person under the Act, attempted to enter into [name the protected area], a protected area without a permit.

SECTION 33 (1) OF THE NATIONAL PARKS AND WILDLIFE ACT

Conveying a weapon into a protected area

STATEMENT OF OFFENCE

Conveying a weapon into a protected area contrary to section 33 (1) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being an exempted person under the Act, conveyed a weapon, namely [name the weapon], into [name the protected area], a protected area, without a licence.

SECTION 34 OF THE NATIONAL PARKS AND WILDLIFE ACT

Discarding or depositing litter or waste in a protected area

STATEMENT OF OFFENCE

Discarding or depositing litter or waste in a protected area contrary to section 34 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [discarded/deposited – choose applicable] [describe litter or waste] at or near

[specify location] in [name the protected area], a protected area.

SECTION 35 (a) OF THE NATIONAL PARKS AND WILDLIFE ACT

Hunting* / Taking* / Killing / Injuring* / Disturbing* a domestic animal or cultivated plant lawfully present from/in a protected area without a valid licence

STATEMENT OF OFFENCE

Taking a domestic animal or cultivated plant lawfully present from a protected area without a valid hunting licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took [specify the domestic animal or cultivated plant lawfully present], a [domestic animal lawfully present/cultivated plant lawfully present—choose applicable], from [name the protected area], a protected area, without a valid hunting licence.

STATEMENT OF OFFENCE

Injuring a domestic animal or cultivated plant lawfully present in a protected area without a valid licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, injured [specify the domestic animal or cultivated plant lawfully present], a [domestic animal lawfully present/cultivated plant lawfully present—choose applicable], in [name the protected area], a protected area, by [specify the manner and type of injury], without a valid licence.

STATEMENT OF OFFENCE

Disturbing a domestic animal or cultivated plant lawfully present in a protected area without a valid licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, disturbed [specify the domestic animal or cultivated plant lawfully present], a [domestic animal lawfully present/cultivated plant lawfully present—choose applicable], in [name the protected area], a protected area, by [specify the manner and type of injury], without a valid licence.

Hunting / Disturbing a wild plant or animal in a protected area without a valid licence

STATEMENT OF OFFENCE

Hunting in a protected area without a valid hunting licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] in the District of [name of district] in the Republic of Malawi, was found hunting in..... [name the protected area], a protected area without a valid hunting licence.

STATEMENT OF OFFENCE

Disturbing a wild plant or animal [choose the applicable] from/in a protected area without a valid licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] in the District of [name of district] in the Republic of Malawi, disturbed (name the wild plant or animal), in (name the protected area), a protected area by (specify the kind of disturbance) without a valid licence.

Taking / Killing / Injuring a wild plant or animal in a protected area without a valid licence

STATEMENT OF OFFENCE

Taking a wild plant or animal [choose applicable] from a protected area without a valid hunting licence contrary to section 35 (a) as read with section 110 (a)/ 110A(a)/ 110B(a) [choose applicable] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] in the District of [name of district] in the Republic of Malawi, took.....(name the wild plant or animal), a protected/endangered/listed species [choose applicable] from (name the protected area), a protected area without a valid hunting licence.

STATEMENT OF OFFENCE

Killing a wild plant or animal [choose applicable] from/in a protected area without a valid hunting licence contrary to section 35 (a) as read with section 110 (a)/ 110A(a)/ 110B(a) [choose applicable] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] in the District of [name of district] in the Republic of Malawi, killed.....(name the wild plant or animal), a protected/endangered/listed species [choose applicable] from (name the protected area), a protected area without a valid hunting licence.

STATEMENT OF OFFENCE

Injuring a wild plant or animal [choose the applicable] from/in a protected area without a valid licence contrary to section 35 (a) as read with section 110 (a)/ 110A(a)/ 110B(a) [choose applicable] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] in the District of [name of district] in the Republic of Malawi, injured (name the wild plant or animal), a protected/endangered/listed species [choose

applicable] from (name the protected area), a protected area without a valid licence.

SECTION 35 (b) OF THE NATIONAL PARKS AND WILDLIFE ACT

Taking / Destroying / Damaging / Defacing an object of geomorphological, archaeological, historical, cultural, or scientific interest OR a structure lawfully placed or constructed in/from a protected area without a valid licence

STATEMENT OF OFFENCE

Taking an object of geomorphological, archaeological, historical, cultural, or scientific interest from a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took [specify object], an object of [geomorphological, archaeological, historical, cultural, or scientific interest – choose applicable], from [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Destroying an object of geomorphological, archaeological, historical, cultural, or scientific interest in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, destroyed [specify object], an object of [geomorphological, archaeological, historical, cultural, or scientific interest – choose applicable], in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Damaging an object of geomorphological, archaeological, historical, cultural, or scientific interest in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, damaged [specify object], an object of [geomorphological, archaeological, historical, cultural, or scientific interest – choose applicable], in [name the protected area], a protected area, by [describe manner and character of damage caused to object], without a valid licence.

STATEMENT OF OFFENCE

Defacing an object of geomorphological, archaeological, historical, cultural, or scientific interest in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, defaced [specify object], an object of [geomorphological, archaeological, historical, cultural, or scientific interest – choose applicable] in [name the protected area], a protected area, by [describe defacement done to object], without a valid licence.

STATEMENT OF OFFENCE

Taking a structure lawfully placed or constructed in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of

village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took [name the structure], a structure that was lawfully [placed/constructed—choose applicable] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Destroying a structure lawfully placed or constructed in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, destroyed [name the structure], a structure that was [placed/constructed—choose applicable] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Damaging a structure lawfully placed or constructed in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, damaged [name the structure], a structure that was lawfully [placed/constructed—choose applicable] in [name the protected area], a protected area, by [describe manner and type of damage done to the structure], without a valid licence.

STATEMENT OF OFFENCE

Defacing a structure lawfully placed or constructed in a protected area without a valid licence contrary to section 35 (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, defaced [name the structure], a structure that was lawfully [placed/constructed—choose applicable] in [name the protected area], a protected area, by [describe defacement done to the structure], without a valid licence.

SECTION 35 (c) OF THE NATIONAL PARKS AND WILDLIFE ACT

Preparing land for cultivation or settlements/ Prospecting for minerals / Mining in a protected area without a valid licence OR attempting the same.

STATEMENT OF OFFENCE

Preparing land for cultivation in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prepared land for cultivation by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Preparing land for settlement in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prepared land for settlement by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Prospecting for minerals in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prospected for minerals by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Mining in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, engaged in mining by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Attempting to prepare land for cultivation in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, attempted to prepare land for cultivation by [specify action taken] in [name the protected area], a protected, area without a valid licence.

STATEMENT OF OFFENCE

Attempting to prepare land for settlement in a protected area without a valid licence contrary to

section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi attempted to prepare land for settlement by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Attempting to prospect for minerals in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, attempted to prospect for minerals by [specify action taken] in [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Attempted to mine in a protected area without a valid licence contrary to section 35 (c) as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, attempted to mine by [specify action taken] in [name the protected area], a protected area, without a valid licence.

SECTION 35 (d) OF THE NATIONAL PARKS AND WILDLIFE ACT

Driving / Conveying / Introducing a wild animal into a protected area

STATEMENT OF OFFENCE

Driving a wild animal into a protected area contrary to section 35 (d) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi drove [specify wild animal], a wild animal, into [name the protected area], a protected area without, a valid licence.

STATEMENT OF OFFENCE

Conveying a wild animal into a protected area contrary to section 35 (d) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, conveyed [specify wild animal], a wild animal into [name the protected area], a protected area without a valid licence.

STATEMENT OF OFFENCE

Introducing a wild animal into a protected area contrary to section 35 (d) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, introduced [specify wild animal], a wild animal, into [name the protected area], a protected area, without a valid licence.

SECTION 35 (e) OF THE NATIONAL PARKS AND WILDLIFE ACT

Driving / Conveying / Introducing a domestic animal / Permitting a domestic animal to stray into a protected area

STATEMENT OF OFFENCE

Driving a domestic animal into a protected area contrary to section 35 (e) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, drove [specify domestic animal], a domestic animal, into [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Conveying a domestic animal into a protected area contrary to section 35 (e) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi conveyed [specify domestic animal], a domestic animal into [name the protected area], a protected area without a valid licence.

STATEMENT OF OFFENCE

Introducing a domestic animal into a protected area contrary to section 35 (e) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, introduced [specify domestic animal], a

domestic animal, into [name the protected area], a protected area, without a valid licence.

STATEMENT OF OFFENCE

Permitting a domestic animal to stray into a protected area contrary to section 35 (e) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a person in charge of a domestic animal, namely [specify domestic animal], permitted the said animal to stray into [name the protected area], a protected area.

SECTION 37 OF THE NATIONAL PARKS AND WILDLIFE ACT

Conveying / Introducing a plant into a protected area

STATEMENT OF OFFENCE

Conveying a plant into a protected area without authority contrary to section 37 (1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, conveyed a plant, namely [specify plant], into [name the protected area], a protected area, without authority.

STATEMENT OF OFFENCE

Introducing a plant into a protected area without authority contrary to section 37 (1) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using

most specific designation possible] in the District of [name of district] in the Republic of Malawi, introduced a plant, namely [specify plant], into [name the protected area], a protected area, without authority.

SECTION 38 OF THE NATIONAL PARKS AND WILDLIFE ACT

Starting/ maintaining a fire in a protected area without authority

STATEMENT OF OFFENCE

Starting a fire in a protected area without authority contrary to section 38 as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, started a fire in [name the protected area], a protected area, without authority.

STATEMENT OF OFFENCE

Maintaining a fire in a protected area without authority contrary to section 38 as read with section 110A (d) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, maintained a fire in [name the protected area], a protected area, without authority.

SECTION 41 OF THE NATIONAL PARKS AND WILDLIFE ACT

Others prohibited acts into a protected area

(see also National Parks and Wildlife (Protected Areas) Regulations)

STATEMENT OF OFFENCE

Displaying a notice or advertisement within a protected area or at an entrance to or on the boundary of a protected area without written permission contrary to regulation 10 (a) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, displayed a [notice or advertisement – choose applicable] within a [protected area/at an entrance to a protected area/on the boundary of a protected area – choose applicable], namely [name of protected area], without written permission.

STATEMENT OF OFFENCE

Collecting money from members of the public within a protected area without written permission contrary to regulation 10 (b) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, collecting money from members of the public within a protected area, namely [name of protected area], without written permission.

STATEMENT OF OFFENCE

Selling or offering for sale goods, or carrying on trade, within a protected area without written permission contrary to regulation 10 (b) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [sold goods/offered for sale goods/or carried on trade – choose applicable] by [specify goods or type of

trade] within a protected area, namely [name of protected area], without written permission.

STATEMENT OF OFFENCE

Landing an aircraft in a protected area in a non-emergency situation without authority contrary to regulation 13 (a) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, landed an aircraft in a protected area, namely [name protected area], neither in an emergency situation nor at an airfield authorized through an order of the Director.

STATEMENT OF OFFENCE

Flying an aircraft at an altitude of less than five hundred metres above the ground in a non-emergency situation in a protected area without authority contrary to regulation 13 (b) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, flew an aircraft at an altitude of less than five hundred metres above the ground in a protected area, namely [name protected area], without authority and for a purpose other than landing or taking off in an emergency.

STATEMENT OF OFFENCE

Making use of or wearing a badge, uniform or emblem so nearly resembling a badge, uniform, or emblem authorized to be worn by an officer of a protected area contrary to regulation 14 (2)(a) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using

most specific designation possible] in the District of [name of district] in the Republic of Malawi, [made use of/wore – choose applicable] a [badge/uniform/emblem – choose applicable] so nearly resembling a [badge/uniform/emblem – choose applicable] authorized to be worn by an officer of a protected area.

STATEMENT OF OFFENCE

Unlawfully holding oneself out as being an officer of a protected area contrary to regulation 14 (2)(a) as read with regulation 18 of National Parks and Wildlife (Protected Areas) Regulations.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully held himself or herself out as being an officer by [describe behavior of defendant], in [name protected area], a protected area.

SECTION 47 OF THE NATIONAL PARKS AND WILDLIFE ACT

Hunting/Taking a protected, endangered, listed species without a valid licence or permit

STATEMENT OF OFFENCE

Hunting protected species without a valid licence or permit contrary to section 47 (1) as read with section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a protected species, namely [specify species hunted], without a valid licence or permit.

STATEMENT OF OFFENCE

Hunting endangered species without a valid licence or permit contrary to section 47 (1) as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted an endangered species, namely [specify species hunted], without a valid licence or permit.

STATEMENT OF OFFENCE

Hunting listed species without a valid licence or permit contrary to section 47 (1) as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a listed species, namely [specify species hunted], without a valid licence or permit.

STATEMENT OF OFFENCE

Taking protected species without a valid licence or permit contrary to section 47 (1) as read with section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took a protected species, namely [specify the species of animal or plant], without a valid licence or permit.

STATEMENT OF OFFENCE

Taking endangered species without a valid licence or permit contrary to section 47 (1) as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took an endangered species, namely [specify the

species of animal or plant], without a valid licence or permit.

STATEMENT OF OFFENCE

Taking listed species without a valid licence or permit contrary to section 47 (1) as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, took a listed species, namely [specify the species of animal or plant], without a valid licence or permit.

SECTION 49 OF THE NATIONAL PARKS AND WILDLIFE ACT

Illegal transferring of a licence or permit

STATEMENT OF OFFENCE

Illegal transferring of a licence or permit contrary to section 49 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, illegally transferred a [name of licence or permit] to [name the person].

SECTION 60 OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to carry a licence during hunting or taking an animal OR while taking a plant

Failing to produce a licence for inspection by an officer

STATEMENT OF OFFENCE

Failing to carry a licence during hunting or taking an animal contrary to section 60 (1) and (2) as

read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a holder of [specify the type of licence], was found [hunting/taking – choose applicable] an animal, namely [specify animal], without the said licence.

STATEMENT OF OFFENCE

Failing to carry a licence while taking a plant contrary to section 60 (1) and (2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a holder of [specify the type of licence] engaged in the taking of a plant, namely [specify of plant], without the said licence.

STATEMENT OF OFFENCE

Failing to produce a licence for inspection by an officer contrary to section 60 (1) and (2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a holder of [specify the type of licence], failed to produce the same for inspection to [name of officer], who is an officer authorized under the National Parks and Wildlife Act, upon being requested to produce said license.

STATEMENT OF OFFENCE

Failing to keep a true record in the prescribed form of all game species hunted or taken during validity of the licence contrary to section 60 (1) and (2) as read with section 108 of the National

Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi being a holder of [specify the type of licence] failed to keep in a true record, in the prescribed form, of all game species hunted or taken by you during validity of the said licence.

SECTION 62 OF THE NATIONAL PARKS AND WILDLIFE ACT

Chasing, driving, or employing a weapon against a protected / endangered / listed species as an employee of a licensee

STATEMENT OF OFFENCE

Chasing, driving, or employing a weapon against a protected species as an employee of a licensee contrary to section 62 (2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a person employed by a licensed person, namely [name the holder of the licence who employed the defendant], as a [guide/tracker/porter—choose applicable], [chased/drove/employed a weapon – choose applicable], [if employing a weapon: namely, [specify the weapon]] [away/against – choose applicable] a protected species, namely, [specify animal].

STATEMENT OF OFFENCE

Chasing, driving, or employing a weapon against an endangered species as an employee of a licensee contrary to section 62 (2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at

[name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a person employed by a licensed person, namely [name the holder of the licence who employed the defendant], as a [guide/tracker/porter—choose applicable], [chased/drove/employed a weapon—choose applicable] [if employing a weapon: namely, [specify the weapon]] [away/against – choose applicable] an endangered species namely [specify animal].

STATEMENT OF OFFENCE

Chasing, driving or employing any weapon against a listed species as an employee of a licensee contrary to section 62 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a person employed by a licensed person, namely [name the holder of the licence who employed the defendant], as a [guide/tracker/porter—choose applicable], [chased/drove/employed a weapon—choose applicable] [if employing a weapon: namely, [specify the weapon]] [away/against – choose applicable] an endangered species, namely [specify animal].

SECTION 64 OF THE NATIONAL PARKS AND WILDLIFE ACT

Causing a fire for purposes of hunting (or assisting another to hunt) a wild animal/taking (or assisting another to take) a wild animal or plant

STATEMENT OF OFFENCE

Causing a fire for purposes of hunting a wild animal contrary to section 64 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of

Malawi, for purposes of hunting a wild animal [if target known, add the following: namely, [specify animal]], caused a fire by [describe start of fire].

STATEMENT OF OFFENCE

Causing a fire for purposes of taking a wild animal or plant contrary to section 64 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi for purposes of taking a wild [animal/plant—choose applicable] [if target known, add the following: namely, [specify animal or plant]], caused a fire by [describe start of fire].

STATEMENT OF OFFENCE

Causing a fire for purposes of assisting another to hunt a wild animal contrary to section 64 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, for purposes of assisting another person, namely [name of person assisted to hunt a wild animal caused a fire], caused a fire by [describe start of fire]

STATEMENT OF OFFENCE

Causing a fire for purposes of assisting another to take a wild plant or animal contrary to section 64 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, for purposes of assisting another person, namely [name of person assisted], to take a wild [plant/

animal – choose applicable], caused a fire by [describe start of fire].

SECTION 65 OF THE NATIONAL PARKS AND WILDLIFE ACT

Prohibition against hunting a dependent young

STATEMENT OF OFFENCE

Hunting a dependent young of a protected species without authority, licence or permit contrary to section 65 as read with section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a dependent young of a protected species, namely [specify animal], without authority, licence or permit.

STATEMENT OF OFFENCE

Hunting a dependent young of an endangered species without authority, licence or permit contrary to section 65 as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a dependent young of an endangered species, namely [specify animal], without authority, licence or permit.

STATEMENT OF OFFENCE

Hunting a dependent young of a listed species without authority, licence or permit contrary to section 65 as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name

of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a dependent young of a listed species, namely [specify animal], without authority, licence or permit.

STATEMENT OF OFFENCE

Hunting a female of a protected species accompanied by dependent young without authority, licence or permit contrary to section 65 as read with section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a female of a protected species, namely [specify animal], accompanied by dependent young, without authority, licence or permit.

STATEMENT OF OFFENCE

Hunting a female of an endangered species accompanied by dependent young without authority, licence or permit contrary to section 65 as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found hunting a female of an endangered species, namely [specify animal], accompanied by dependent young, without authority, licence or permit.

STATEMENT OF OFFENCE

Hunting a female of a listed species accompanied by dependent young without authority, licence or permit contrary to section 65 as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found hunting a female of a listed species, namely [specify animal], accompanied by dependent young, without authority, licence or permit.

SECTION 66 OF THE NATIONAL PARKS AND WILDLIFE ACT

Prohibited acts having for purpose to hunt or kill a protected / endangered / listed species

STATEMENT OF OFFENCE

For the purpose of or in connection with hunting or taking a protected species, possession of poison, birdlime, trap, net, snare, or similar substance or device capable of killing, capturing or wounding a protected species, without licence contrary to section 66(1) (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of [poison/birdlime/trap/net/snare or similar substance or device – choose applicable] capable of killing, capturing or wounding a protected species, without licence and for the purpose of or in connection with hunting or taking a protected species, namely [specify species].

STATEMENT OF OFFENCE

For the purpose of or in connection with hunting or taking an endangered species, possession of poison, birdlime, trap, net, snare or similar substance or device capable of killing, capturing or wounding an endangered species without licence contrary to section 66(1) (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name

(1) (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, made an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any listed species without licence.

STATEMENT OF OFFENCE

Preparing an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any protected species without licence contrary to section 66 (1) (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prepared an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any protected species without licence.

STATEMENT OF OFFENCE

Preparing an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any endangered species without licence contrary to section 66 (1) (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prepared an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing

or wounding any endangered species without licence.

STATEMENT OF OFFENCE

Preparing an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any listed species without licence contrary to section 66(1)(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, prepared an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any listed species without licence.

STATEMENT OF OFFENCE

Using an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any protected species without licence contrary to section 66(1) (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any protected species without licence.

STATEMENT OF OFFENCE

Using an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any endangered species without licence contrary to section 66(1) (b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any endangered species without licence.

STATEMENT OF OFFENCE

Using an excavation, fence, enclosure or any device fixed to the ground or upon plants, capable of killing, capturing or wounding any listed species without licence contrary to section 66(1)(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [excavation, fence, enclosure or any device fixed to the ground or upon plants – choose applicable] capable of killing, capturing or wounding any listed species without licence.

SECTION 67 OF THE NATIONAL PARKS AND WILDLIFE ACT

Contravening to regulations framing use of weapons for hunting

(see also National Parks and Wildlife (Hunting Weapons) Regulations)

STATEMENT OF OFFENCE

Using a weapon other than a rifle in hunting species contrary to regulation 3 of the National Parks and Wildlife (Hunting Weapons) Regulations as read with sections 67 and 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using

most specific designation possible] in the District of [name of district] in the Republic of Malawi, used a weapon other than a rifle, namely a [name weapon], in hunting species.

STATEMENT OF OFFENCE

Hunting a game species using a rifle of a calibre less than 0.22mm contrary to regulation 4 of the National Parks and Wildlife (Hunting Weapons) Regulations as read with sections 67 and 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted game species using a rifle of a calibre less than 0.22mm, namely a rifle of [insert calibre] calibre.

STATEMENT OF OFFENCE

Hunting a protected species using a rifle of a calibre less than 0.375mm or a muzzle energy of less than 4,000 foot pounds, contrary to regulation 5 of the National Parks and Wildlife (Hunting Weapons) Regulations as read with sections 67 and 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a protected species, namely [name species], using a rifle of [a calibre less than 0.375mm or a muzzle energy of less than 4,000 foot pounds – choose applicable], namely a rifle of [identify calibre and/or muzzle energy].

SECTION 68 OF THE NATIONAL PARKS AND WILDLIFE ACT

Prohibition for hunting during hours of dark

STATEMENT OF OFFENCE

Hunting protected species during hours of darkness contrary to section 68 as read with

section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted for a protected species, namely [specify animal], during hours of darkness.

STATEMENT OF OFFENCE

Hunting endangered species during hours of darkness contrary to section 68 as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted for an endangered species, namely [specify animal], during hours of darkness.

STATEMENT OF OFFENCE

Hunting listed species during hours of darkness contrary to section 68 as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted for a listed species, namely [specify animal], during hours of darkness.

STATEMENT OF OFFENCE

Assisting another in hunting protected species during hours of darkness contrary to section 68 as read with section 110 (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at

[name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi assisted another person, namely [name person assisted], in hunting for a protected species, namely [specify animal], during hours of darkness.

STATEMENT OF OFFENCE

Assisting another in hunting endangered species during hours of darkness contrary to section 68 as read with section 110A (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, assisted another person, namely [name person assisted], in hunting for an endangered species, namely [specify animal], during hours of darkness.

STATEMENT OF OFFENCE

Assisting in the hunting listed species during the hours of darkness without authority or licence contrary to section 68 as read with section 110B (a) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, assisted another person, namely [name person assisted], in hunting for a listed species, namely [specify animal], during hours of darkness.

SECTION 70 OF THE NATIONAL PARKS AND WILDLIFE ACT

Prohibited use of vehicle aircraft or radio-communication in hunting

STATEMENT OF OFFENCE

Discharging a weapon at a protected species from or within fifty metres of a motor vehicle, aircraft, or boat without authority or licence contrary to

section 70(1)(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi discharged [name the weapon], at [specify animal] a protected species from or within fifty metres of a [motor vehicle, aircraft, or boat – choose applicable] without authority or licence.

STATEMENT OF OFFENCE

Discharging a weapon at an endangered species from or within fifty metres of a motor vehicle, aircraft, or boat without authority or licence contrary to section 70(1)(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi discharged [name the weapon], at [specify animal] a endangered species from or within fifty metres of a [motor vehicle, aircraft, or boat – choose applicable] without authority or licence.

STATEMENT OF OFFENCE

Discharging a weapon at a listed species from or within fifty metres of a motor vehicle, aircraft, or boat without authority or licence contrary to section 70(1)(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, discharged a weapon, namely [name the weapon], at a [specify animal], a listed species, from or within fifty metres of a [motor vehicle, aircraft, or boat – choose applicable], without authority or licence.

STATEMENT OF OFFENCE

Using a motor vehicle, aircraft or boat to drive or stampede a protected species contrary to section 70(1)(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi used a [motor vehicle, aircraft or boat – choose applicable] to [drive or stampede—choose applicable] a protected species, namely [specify animal].

STATEMENT OF OFFENCE

Using a motor vehicle, aircraft or boat to drive or stampede an endangered species contrary to section 70(1)(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used a [motor vehicle, aircraft or boat – choose applicable] to [drive or stampede—choose applicable] an endangered species, namely [specify animal].

STATEMENT OF OFFENCE

Using a motor vehicle, aircraft or boat to drive or stampede a listed species contrary to section 70(1)(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used a [motor vehicle, aircraft or boat – choose applicable] to [drive or stampede—choose applicable] a listed species, namely [specify animal].

STATEMENT OF OFFENCE

Using an aircraft or radio communication system to locate a protected species for the purpose of hunting it without authority or licence contrary to section 70(1)(c) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [aircraft or radio communication system – choose applicable] to locate a protected species, namely [specify animal], for the purpose of hunting it, without authority or licence.

STATEMENT OF OFFENCE

Using an aircraft or radio communication system to locate an endangered species for the purpose of hunting it without authority or licence contrary to section 70(1)(c) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [aircraft or radio communication system – choose applicable] to locate an endangered species, namely [specify animal], for the purpose of hunting it, without authority or licence.

STATEMENT OF OFFENCE

Using an aircraft or radio communication system to locate a listed species for the purpose of hunting it without authority or licence contrary to section 70(1)(c) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used an [aircraft or radio communication system

– choose applicable] to locate a listed species, namely [specify animal], for the purpose of hunting it, without authority or licence.

SECTION 78 OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to report accidental killing or killing by error of a protected, endangered, or listed species

Failing to surrender carcass or parts thereof of a protected, endangered, or listed species, following accidental or erroneous killing

STATEMENT OF OFFENCE

Failing to report accidental killing or killing by error of a [protected, endangered, or listed species—choose applicable] contrary to section 78(3) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having accidentally killed or having killed in error a [protected, endangered, or listed species – choose applicable], namely [specify animal], failed to report the said killing to an officer as soon as practicable.

STATEMENT OF OFFENCE

Failing to surrender carcass or parts thereof of a [protected, endangered, or listed species—choose applicable], following accidental or erroneous killing, contrary to section 78(3) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having accidentally killed or having killed in error a [protected, endangered, or listed species – choose applicable], namely [specify animal], failed to surrender the carcass or parts thereof of the said animal to an officer as soon as practicable.

SECTION 79 OF THE NATIONAL PARKS AND WILDLIFE ACT

Offences related to wounded protected, endangered, or listed species

STATEMENT OF OFFENCE

Having wounded a [protected, endangered, or listed species—choose applicable], failing to kill such animal at the earliest opportunity without reasonable cause contrary to section 79(1) & (6) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having wounded a [protected, endangered, or listed species – choose applicable], namely [specify animal], failed to kill the said animal without reasonable cause at the earliest opportunity.

STATEMENT OF OFFENCE

Failing to report wounding of a [protected, endangered, or listed species—choose applicable] to an officer after the wounded animal enters a protected area contrary to section 79 (3) & (6) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having wounded a [protected, endangered, or listed species – choose applicable], namely [specify animal], failed to report to an officer that the said animal had entered into a protected area in such a wounded condition.

STATEMENT OF OFFENCE

Failing to report the wounding of a [protected species/endangered species/listed species – choose applicable] to a private land owner after the wounded animal enters private land contrary to section 79 (4) & (6) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having wounded a [protected, endangered, or listed species – choose applicable], namely [specify animal], failed to report to a private land owner that the said animal had entered into a private land, in such a wounded condition, upon which [name of defendant] had no permission to enter.

SECTION 80 OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to report wounding of a dangerous animal

STATEMENT OF OFFENCE

Failing to report wounding of a dangerous animal to an officer contrary to section 80(1) & (4) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having wounded a dangerous animal, namely [specify animal], and having thereafter failed to kill or capture the said animal within 24 hours of it being wounded, failed to immediately report such facts to an officer.

SECTION 82 OF THE NATIONAL PARKS AND WILDLIFE ACT

Willfully molesting or provoking a wild animal in a manner which results (or likely to result) in its destruction OR provocation or harassment

STATEMENT OF OFFENCE

Willfully molesting or provoking a wild animal in a manner which results in its destruction, without just excuse or cause, contrary to section 82(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, willfully and without just excuse or cause [molested or provoked – choose applicable] a wild animal, namely [specify animal], by [specify action done], in a manner which resulted in its destruction.

STATEMENT OF OFFENCE

Willfully molesting or provoking a wild animal in a manner likely to result in its destruction, without just excuse or cause, contrary to section 82(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, willfully and without just excuse or cause [molested or provoked – choose applicable] a wild animal, namely [specify animal], by [specify action done], in a manner which was likely to result in its destruction.

STATEMENT OF OFFENCE

Willfully molesting or provoking a wild animal in a manner which results in its provocation or harassment, without just excuse or cause, contrary to section 82(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, willfully and without just excuse or cause, [molested or provoked – choose applicable] a wild animal, namely [specify animal], by [specify action done], in a manner which resulted in its [provocation or harassment – choose applicable]

SECTION 83 OF THE NATIONAL PARKS AND WILDLIFE ACT

STATEMENT OF OFFENCE

Causing unnecessary or undue suffering to a wild animal, contrary to section 83 as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, caused unnecessary or undue suffering to a wild animal, namely [specify animal], by [specify action done], as the animal was living in [the wild or captivity – choose applicable].

SECTION 86 OF THE NATIONAL PARKS AND WILDLIFE ACT

Possessing / buying / selling / transferring / receiving in transfer (or attempt to possess, buy, sell, transfer or receive in transfer) a specimen of a game/protected/endangered/listed species without a license or authorization

STATEMENT OF OFFENCE

Possessing a specimen of a game species without a licence, contrary to section 86(1) as read with section 109 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of a specimen of a game species, namely [describe the specimen and from which game species], without either a valid licence or certificate of ownership.

STATEMENT OF OFFENCE

Possessing a specimen of a protected species without a licence or valid certificate of ownership, contrary to section 86(1) as read with section 110 (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi was found in possession of a specimen of a protected species, namely [describe the specimen and from which protected species], valued at [specify value], without either a valid licence or certificate of ownership.

STATEMENT OF OFFENCE

Possessing a specimen of an endangered species without a licence or valid certificate of ownership, contrary to section 86(1) as read with section 110A (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of a specimen of an endangered species, namely [describe the specimen and from which endangered species], valued at [specify value], without either a valid licence or certificate of ownership.

STATEMENT OF OFFENCE

Possessing a specimen of a listed species without a licence or valid certificate of ownership, contrary to section 86(1) as read with section 110B (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of a specimen of a listed species, namely [describe the specimen and from which listed species], without either a valid licence or certificate of ownership.

STATEMENT OF OFFENCE

Buying a specimen of a game species without authorization contrary to section 86(1) as read

with section 109 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi bought a specimen of a game species, namely [describe the specimen and from which game species], from [name of seller], without authorization.

STATEMENT OF OFFENCE

Buying a specimen of a protected species without authorization contrary to section 86(1) as read with section 110 (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, bought a specimen of a protected species, namely [describe the specimen and from which protected species], valued at [specify value], from [name of seller], without authorization.

STATEMENT OF OFFENCE

Buying a specimen of an endangered species without authorization contrary to section 86(1) as read with section 110A (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, bought a specimen of an endangered species, namely [describe the specimen and from which endangered species], valued at [specify value], from [name of seller], without authorization.

STATEMENT OF OFFENCE

Buying a specimen of a listed species without authorization contrary to section 86(1) as read

of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, received in transfer a specimen of an endangered species, namely [describe the specimen and from which endangered species], valued at [specify value], from [name of person or place], without authorization.

STATEMENT OF OFFENCE

Receiving in transfer a specimen of a listed species without authorization contrary to section 86(1) as read with section 110B (b) of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi received in transfer a specimen of a listed species namely [describe the specimen and from which listed species], from [name of person or place], without authorization.

NOTE: Any attempt to commit offences under section 86 above constitutes an offence and shall be drafted the same as above by including the word “attempting” in the statement of offence and particulars of offence.

Example:

STATEMENT OF OFFENCE

Attempting to buy a specimen of a game species without authorization contrary to section 86(1) as read with section 109 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, attempted to buy a specimen of a game species, namely [describe the specimen and from which game species], from [name of seller], without authorization.

SECTION 87 OF THE NATIONAL PARKS AND WILDLIFE ACT

Contravening to regulations controlling trade in live animals [protected, endangered, listed species]

STATEMENT OF OFFENCE

Carrying on trade in live wild animals without a live wild animal dealer’s permit contrary to regulation 2 of National Parks and Wildlife (Control of Trade in Live Animals) Regulations as read with sections 87 and 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, carried on trade in live wild animals, namely [specify species of animal(s)], without a live wild animal dealer’s permit.

SECTION 88 OF THE NATIONAL PARKS AND WILDLIFE ACT

Having lawfully taken possession of a specimen of a protected/endangered or listed species under a license and failing to present said licence and specimen to the Director within 14 days, where said specimen is to be used for purposes other than human consumption.

Failing to surrender to the Director, following the Director’s demand, a certificate of ownership obtained by fraud, misrepresentation or error for cancellation

STATEMENT OF OFFENCE

Having lawfully taken possession of a specimen of a protected species under a license, failing to present said licence and specimen to the Director within 14 days, where said specimen is to be used for purposes other than human consumption, contrary to section 88(2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name

of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a licensed person under the Act and having taken possession of a specimen of a protected species, namely [describe the specimen and from which protected species], which was not meant for human consumption, failed to present the said specimen and licence to the Director within 14 days of taking possession.

STATEMENT OF OFFENCE

Having lawfully taken possession of a specimen of an endangered species under a license, failing to present said licence and specimen to the Director within 14 days, where said specimen is to be used for purposes other than human consumption, contrary to section 88(2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a licensed person under the Act and having taken possession of a specimen of an endangered species, namely [describe the specimen and from which endangered species], which was not meant for human consumption, failed to present the said specimen and licence to the Director within 14 days of taking possession.

STATEMENT OF OFFENCE

Having lawfully taken possession of a specimen of a listed species under a license, failing to present said licence and specimen to the Director within 14 days, where said specimen is to be used for purposes other than human consumption, contrary to section 88(2) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a licensed person under the Act and having taken possession of a specimen of a listed species, namely [describe the specimen and from which listed species], which was not meant for human

consumption, failed to present the said specimen and licence to the Director within 14 days of taking possession.

STATEMENT OF OFFENCE

Failing to surrender to the Director, following the Director’s demand, a certificate of ownership obtained by fraud, misrepresentation or error for cancellation without valid reason contrary to section 88(4) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, without valid reason failed to surrender to the Director for cancellation, following the Director’s demand, a certificate of ownership, number [insert certificate number], which the Director has determined was obtained by [fraud, misrepresentation or error – choose applicable].

SECTION 89 OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to possess a certificate of ownership during a transfer or purported transfer / to surrender a certificate of ownership to the Director after a transfer of a specimen of a prescribed species

STATEMENT OF OFFENCE

Failing to possess a certificate of ownership during a transfer or purported transfer of a specimen of a prescribed species contrary to section 89(4) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to possess a certificate of ownership in respect of a specimen of a prescribed species, namely [describe the specimen and from which proscribed species], during a transfer or

purported transfer of the said specimen from [name of transferor] to [name of receiver].

STATEMENT OF OFFENCE

Failing to surrender a certificate of ownership to the Director after a transfer of a specimen of a prescribed species contrary to section 89(4) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having transferred a specimen of a prescribed species, namely [describe the specimen and from which prescribed species], failed to surrender a certificate of ownership to the Director after the said transfer.

STATEMENT OF OFFENCE

Failing to obtain a certificate of ownership after receiving by transfer a specimen of a prescribed species contrary to section 89(4) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a recipient of a transfer of a specimen of a prescribed species, namely [describe the specimen and from which prescribed species], failed to obtain a certificate of ownership endorsed by the Director.

SECTION 90 OF THE NATIONAL PARKS AND WILDLIFE ACT

Failing to report a found government trophy

STATEMENT OF OFFENCE

Failing to report a found government trophy to an officer contrary to section 90(3) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to report a found government trophy, namely [describe the trophy], to an officer soon after [he/she] came into possession of the said government trophy.

SECTION 91 OF THE NATIONAL PARKS AND WILDLIFE ACT

Possessing / Purporting to buy / Purporting to sell / Unlawful transfer / Deal of government trophy

STATEMENT OF OFFENCE

Unlawful possession of a government trophy contrary to section 91(1) as read with section 110 (b)/ 110A (b)/ 110B (b) [choose applicable depending on species] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully possessed a government trophy, namely [describe the trophy] which is a specimen of a protected/endangered/listed species [choose applicable].

STATEMENT OF OFFENCE

Unlawfully purporting to buy a government trophy contrary to section 91(1) as read with section 110 (b)/ 110A (b)/ 110B (b) [choose applicable depending on species] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully purported to buy a government trophy, namely [describe the trophy] which is a specimen

of a protected/endangered/listed species [choose applicable].

STATEMENT OF OFFENCE

Unlawfully purporting to sell a government trophy contrary to section 91(1) as read with section 110 (b)/ 110A (b)/ 110B (b) [choose applicable depending on species] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully purported to sell a government trophy, namely [describe the trophy] which is a specimen of a protected/endangered/listed species [choose applicable].

STATEMENT OF OFFENCE

Unlawful transfer of a government trophy contrary to section 91(1) as read with section 110 (b)/ 110A (b)/ 110B (b) [choose applicable depending on species] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully transferred a government trophy, namely [describe the trophy] which is a specimen of a protected/endangered/listed species [choose applicable] to [name the person to whom the trophy was transferred]

STATEMENT OF OFFENCE

Dealing in government trophy contrary to section 91(1) as read with section 110 (b)/ 110A (b)/ 110B (b) [choose applicable depending on species] of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District

of [name of district] in the Republic of Malawi, unlawfully dealt in government trophy, namely [describe the trophy] which is a specimen of a protected/endangered/listed species [choose applicable] by [specify the action/how the dealing was done].

SECTION 93 OF THE NATIONAL PARKS AND WILDLIFE ACT

Conducting business OR advertising oneself as a professional hunter without licence

STATEMENT OF OFFENCE

Conducting business as a professional hunter without licence contrary to section 93(a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being a holder of a professional hunter's licence, conducted business as a professional hunter.

STATEMENT OF OFFENCE

Advertising oneself as a professional hunter without licence contrary to section 93(b) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being a holder of a professional hunter's licence, advertised [himself/herself] as a professional hunter.

STATEMENT OF OFFENCE

Soliciting a contract or commissions in the capacity of a professional hunter without licence contrary to section 93(c) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being a holder of a professional hunter’s licence solicited [a contract or commissions – choose applicable] under which [he or she] was to act in the capacity of a professional hunter.

STATEMENT OF OFFENCE

Assisting another person to hunt a protected species or game species for gain or reward without a professional hunter’s licence contrary to section 93(d) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, not being a holder of a professional hunter’s licence, assisted another person, namely [name the person], to hunt a [protected species/game species – choose applicable], namely [specify the species], for gain or reward without a professional hunter’s licence and while acting in a capacity other than as a guide, tracker, porter or like capacity.

SECTION 98 OF THE NATIONAL PARKS AND WILDLIFE ACT

Importing /Exporting or re-exporting a specimen of a protected/endangered/listed species without passing through a customs post or port OR without producing to a customs officer a valid permit to import

STATEMENT OF OFFENCE

Importing a specimen of a protected species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name

of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of a protected species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without passing through a customs post or port.

STATEMENT OF OFFENCE

Importing a specimen of an endangered species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of an endangered species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without passing through a customs post or port.

STATEMENT OF OFFENCE

Importing a specimen of a listed species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of a listed species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without passing through the customs post or port.

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of a protected species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported or re-exported – choose applicable] a specimen of a protected species, namely [specify the specimen and species], from the Republic of Malawi to [name of country] without passing through a customs post or port.

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of an endangered species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi [exported or re-exported – choose applicable], a specimen of an endangered species, namely [specify specimen and species], from the Republic of Malawi to [name of country] without passing through a customs post or port.

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of a listed species without passing through a customs post or port contrary to section 98(a) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported or re-exported – choose applicable] a specimen of a listed species, namely [specify specimen and species] from the Republic of Malawi to [name of country] without passing through a customs post or port.

STATEMENT OF OFFENCE

Importing specimen of a protected species without producing to a customs officer a valid

permit to import contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of a protected species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without producing to a customs officer a valid import permit.

STATEMENT OF OFFENCE

Importing a specimen of an endangered species without passing through a customs post or port contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of an endangered species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without producing to a customs officer a valid import permit.

STATEMENT OF OFFENCE

Importing a specimen of a listed species without passing through a customs post or port contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a specimen of a listed species, namely [specify specimen and species], from [name the country] into the Republic of Malawi without producing to a customs officer a valid import permit.

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of a protected species without passing through a customs post or port contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported or re-exported – choose applicable] a specimen of a protected species, namely [specify the specimen and species], from the Republic of Malawi to [name of country] without producing to a customs officer a valid [export permit or re-export permit—choose applicable].

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of an endangered species without passing through a customs post or port contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name

of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi [exported or re-exported – choose applicable], a specimen of an endangered species, namely [specify specimen and species], from the Republic of Malawi to [name of country] without producing to a customs officer a valid [export permit or re-export permit—choose applicable].

STATEMENT OF OFFENCE

Exporting or re-exporting a specimen of a listed species without passing through a customs post or port contrary to section 98(b) as read with section 111 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date – e.g., 1st, 2nd, etc.] day of [month] 20[year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported or re-exported – choose applicable] a specimen of a listed species, namely [specify specimen and species] from the Republic of Malawi to [name of country] without producing to a customs officer a valid [export permit or re-export permit—choose applicable].

CHAPTER TWO

OFFENCES UNDER THE FORESTRY ACT, CAP 63:01 OF THE LAWS OF MALAWI

SECTION 39 OF THE FORESTRY ACT

Causing a fire in a forest reserve, protected forest area, or village forest area

Failing to take necessary precautions to prevent a fire from escaping control

STATEMENT OF OFFENCE

Causing a fire in a forest reserve or protected forest area without authority contrary to section 39(1) as read with section 65(1) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, caused a fire in a [forest reserve/protected forest area—choose applicable], namely [name the forest/area], without authority or in an area not designated for that purpose.

STATEMENT OF OFFENCE

Causing a fire in a village forest area without authority contrary to section 39(3) as read with section 65(1) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi caused a fire in a village forest area, namely [name the village forest], without authorization of the management authority.

STATEMENT OF OFFENCE

Failing to take necessary precautions to prevent a fire from escaping control contrary to section 39(4) as read with section 65(2) of the Forestry

Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having caused a fire in or near a [forest reserve/protected forest area/village forest area- choose applicable], namely, [name the forest/area], failed to take necessary precautions to prevent the said fire from escaping [his/her] control.

SECTION 43 OF THE FORESTRY ACT

Prohibition of possession or use of weapons, traps, poison and explosives.

STATEMENT OF OFFENCE

Conveying to a forest reserve or protected forest area a [weapon, trap, explosive, poison, or hunting animal—choose applicable], without authority, contrary to section 43(1) as read with section 71(1), of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, conveyed into a [forest reserve/protected forest area—choose applicable], namely [name the forest/area], a [insert applicable item: weapon, trap, explosive, poison, or hunting animal], namely [name of item], and was not an officer acting in performance of [his/her] duties.

STATEMENT OF OFFENCE

Possessing a [insert applicable item: weapon, trap, explosive, poison, or hunting animal] within a forest reserve or protected forest area, without authority, contrary to section 43(1) as read with section 71(1) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, possessed a [insert applicable item: weapon, trap, explosive, poison, or hunting animal], namely [name of item], within a [forest reserve/protected forest area—choose applicable], namely [name of forest reserve/area], and was not an officer acting in the performance of [his/her] duties.

STATEMENT OF OFFENCE

Using a [insert applicable item: weapon, trap, explosive, poison, or hunting animal] within a forest reserve or protected forest area, without authority, contrary to section 43(1) as read with section 71(1) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found using a [insert applicable item: weapon, trap, explosive, poison, or hunting animal], namely [name of item], within a [forest reserve/protected forest area—choose applicable], namely [name of forest reserve/area], and was not an officer acting in the performance of [his/her] duties.

SECTION 44 OF THE FORESTRY ACT

Deposits litter or noxious waste.

STATEMENT OF OFFENCE

Depositing [litter or noxious waste—choose applicable] in a forest reserve, protected forest area, or village forest area without license contrary to section 44 as read with section 72 of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using

most specific designation possible] in the District of [name of district] in the Republic of Malawi deposited, [insert applicable: litter or noxious waste], namely [describe litter/noxious waste], in a [forest reserve/protected forest area/village forest area—choose applicable], namely [name of forest/area], without license.

SECTION 46 OF THE FORESTRY ACT

Fells, cuts, takes, destroys, removes, collects, or uproots any tree and other vegetation

Squats, resides, erects a building, hut, livestock enclosures, or structure

Grazes livestock, cultivates crops, clears, digs, or breaks up land for any road or for any purpose whatsoever

STATEMENT OF OFFENCE

Cutting down forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, cut down forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Taking forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi,

took forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Felling forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, felled forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Destroying forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, destroyed forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], by [describe manner of destruction], without licence.

STATEMENT OF OFFENCE

Uprooting forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as

read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, uprooted forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Collecting forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, collected forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Removing forest produce from a forest reserve, customary land, public land, or protected forest area without license contrary to section 46(a) as read with section 64(1)(a) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, removed forest produce, namely [name of forest produce], from a [forest reserve, customary land, public land, or protected forest area – choose

applicable], namely [forest reserve, customary land, public land, or protected forest area], without licence.

STATEMENT OF OFFENCE

Cultivating crops in a forest reserve or protected area without licence contrary to section 46(b) as read with section 64(1)(d) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, cultivated crops, namely [name of crop], in a [forest reserve/protected area- choose applicable], namely [name of forest/area], without licence.

STATEMENT OF OFFENCE

Grazing livestock in a forest reserve or protected area without licence contrary to section 46(b) as read with section 64(1)(d) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, grazed livestock, namely [name of livestock], in a [forest reserve/protected area—choose applicable], namely [name of forest/area], without licence.

STATEMENT OF OFFENCE

Clearing land in a forest reserve or protected area without licence contrary to section 46(b) as read with section 64(1)(d) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi,

cleared land by [describe action] in a [forest reserve/protected area- choose applicable], namely, [name of forest/area], without licence.

STATEMENT OF OFFENCE

Digging or breaking up land in a forest reserve or protected area without licence contrary to section 46(b) as read with section 64(1)(d) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, dug or broke up land by [describe action] in a [forest reserve/protected area- choose applicable], namely [name of forest/area], without licence.

STATEMENT OF OFFENCE

[Squatting/residing/erecting a building(s)/livestock enclosure(s)/structure(s)- choose applicable] in a forest reserve or protected area without licence contrary to section 46(d) as read with section 64(1)(c) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [squatted/resided/erected a building/erected a livestock enclosure/erected any structure—choose applicable], namely [describe means of squatting/residence/structure], in a [forest reserve/protected area- choose applicable], namely [name of forest/area], without licence.

SECTION 64 OF THE FORESTRY ACT

Connives with or causes another person to fell/cut/take/destroy/remove/ collect/uproot any tree and other vegetation

STATEMENT OF OFFENCE

[Conniving with/causing—choose applicable] another person to [fell/cut/take/destroy/remove/

collect/uproot- choose applicable] any tree, other vegetation or forest property in a forest reserve or protected forest area without authority contrary to section 64(1)(b) & 64(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [connived with/caused—choose applicable] another person, namely, [name of person], to [fell/cut/take/destroy/remove/collect/uproot-choose applicable] a [tree/other vegetation/forest property- choose applicable], namely [describe or identify], in a [forest reserve/protected forest area- choose applicable], namely [name of reserve/area], without authority.

SECTION 65 OF THE FORESTRY ACT

Refusing to assist in averting or extinguishing a fire

STATEMENT OF OFFENCE

Refusing to assist in averting or extinguishing a fire without reasonable cause, when required to do so under section 41 at the request of an officer, contrary to section 65(3) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, refused to assist in [averting/extinguishing-choose applicable] a fire when required to do so by an officer [name of officer], without reasonable cause.

SECTION 66 OF THE FORESTRY ACT

Pursuing / Killing / Hunting / Molesting / Capturing / Injuring an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area

Collecting eggs or spawns from a forest reserve, protected forest area, or village forest area

STATEMENT OF OFFENCE

Pursuing an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, pursued an [animal/bird/fish/reptile- choose applicable], namely a [name of animal, bird, fish, or reptile], from a [forest reserve/protected forest area/village forest area- choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Killing an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, killed a [animal/bird/fish/reptile- choose applicable], namely a [name of animal, bird, fish, or reptile], in a [forest reserve/protected forest area/village forest area- choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Hunting an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, hunted a [animal/bird/fish/reptile—choose

applicable], namely a [name of animal, bird, fish, or reptile], in a [forest reserve/protected forest area/village forest area- choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Molesting an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, molested an [animal/bird/fish/reptile—choose applicable], namely a [name of animal, bird, fish, or reptile], from a [forest reserve/protected forest area/village forest area—choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Capturing an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, captured an [animal/bird/fish/reptile—choose applicable], namely a [name of animal, bird, fish, or reptile], from a [forest reserve/protected forest area/village forest area—choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Injuring an animal, bird, fish, or reptile in a forest reserve, protected forest area or village forest area without authority contrary to section 66(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, injured an [animal/bird/fish/reptile—choose applicable], namely a [name of animal, bird, fish, or reptile], in a [forest reserve/protected forest area/village forest area- choose applicable], namely [name of forest/area], without authority.

STATEMENT OF OFFENCE

Collecting eggs or spawns from a forest reserve, protected forest area, or village forest area without authority contrary to section 66(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, collected [eggs/spawns—choose applicable], namely [type of egg or spawn], from a [forest reserve/protected forest area/village forest area—choose applicable], namely [name of forest/area], without authority.

SECTION 68 OF THE FORESTRY ACT

Knowingly receive forest produce illegally; possess forest produce without a permit; traffics in forest produce without a licence or permit.

Engage in the production, possession, trafficking or sale of charcoal without a licence or permit.

Possess, traffics or sells round wood without a licence or permit.

STATEMENT OF OFFENCE

Illegally receiving forest produce contrary to section 68(1)(a) as read with section 68(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District

of [name of district] in the Republic of Malawi, knowingly received forest produce, namely [name of forest produce], from another person, [name of person], illegally.

STATEMENT OF OFFENCE

Being found in possession of forest produce without a permit contrary to section 68(1)(b) as read with section 68(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of forest produce, namely [name the forest produce], without a permit.

STATEMENT OF OFFENCE

Trafficking in forest produce without a licence contrary to section 68(1)(c) as read with section 68(2) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, trafficked forest produce, namely [name the forest produce], by [describe actions constituting trafficking], without a licence.

STATEMENT OF OFFENCE

[Producing/possessing/trafficking/selling—choose applicable] charcoal without a licence or permit contrary to section 68(3)(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [produced/possessed/trafficked/sold—choose applicable] charcoal without a licence or permit.

STATEMENT OF OFFENCE

[Possessing/trafficking/selling-choose applicable] round wood without a licence or permit contrary to section 68(3)(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [possessed/trafficked/sold—choose applicable] round wood without a licence or permit.

SECTION 69 OF THE FORESTRY ACT

Obstruct/hinder any officer in the performance of his functions under this Act; bribe; withholds information;

Refuse to furnish to any officer on request, particulars or information which the officer is entitled to obtain.

STATEMENT OF OFFENCE

[Obstructing/hindering—choose applicable] an officer in the performance of [his/her] functions contrary to section 69(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi [obstructed/hindered- choose applicable] an officer, namely [name of officer], in the performance of [his/her] functions, by [describe manner of obstruction/hindrance].

STATEMENT OF OFFENCE

Willfully or recklessly giving false or misleading information to any officer in the performance of his functions contrary to section 69(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [willfully/recklessly—choose applicable] gave [false/misleading—choose applicable] information, namely [identify false/misleading information], to [name of officer], an officer who was entitled to obtain such information in the performance of [his/her] functions.

STATEMENT OF OFFENCE

Refusing to furnish particulars or information to an officer entitled to obtain the information upon request, contrary to section 69(c) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, refused to furnish [particulars/information—choose applicable] to [name of officer], an officer who was entitled to obtain such [particulars/information—choose applicable] under the Forestry Act.

SECTION 70 OF THE FORESTRY ACT

Counterfeits or alters any licence, permit, or prescribed document permit; falsely marks any forest produce

STATEMENT OF OFFENCE

Counterfeiting a licence, permit or pass required under the Forestry Act without lawful authority contrary to section 70(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, counterfeited a [licence/permit/pass—choose applicable], namely [name of licence/permit/

pass], required under the Forestry Act, without lawful authority.

STATEMENT OF OFFENCE

Altering a licence, permit or pass required under the Forestry Act without lawful authority contrary to section 70(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, altered a [licence/permit/pass—choose applicable], namely [name of licence/permit/pass], required under the Forestry Act by [specify nature of alteration], without lawful authority.

STATEMENT OF OFFENCE

Altering a prescribed document issued under the Forestry Act without lawful authority contrary to section 70(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, altered a prescribed document issued under the Act, namely [name of document], by [specify nature of alteration], without lawful authority.

STATEMENT OF OFFENCE

Defacing a prescribed document issued under the Forestry Act without lawful authority contrary to section 70(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, defaced a prescribed document issued under the

Act, namely [name of document], by [specify nature of defacement], without lawful authority.

STATEMENT OF OFFENCE

[Making upon/affixing—choose applicable] to a forest produce a mark used in connection with forest produce by the Department of Forestry without lawful authority contrary to section 70(c) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi [made upon/affixed—choose applicable], to a forest produce, namely [name of forest produce], a mark, namely [specify mark], used in connection with such produce by the Department of Forestry, without lawful authority.

SECTION 73 OF THE FORESTRY ACT

Imports, exports, re-exports, or attempts to import, export or re-export any forest produce

through any place other than a custom's post or port; or without producing to a customs officer a valid licence.

STATEMENT OF OFFENCE

Importing forest produce without passing through a custom post or port contrary to section 73(1)(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported forest produce, namely [name of forest produce], from [name of country], into the Republic of Malawi without passing through either a customs post or port.

STATEMENT OF OFFENCE

Exporting forest produce without passing through a custom post or port contrary to section

73(1)(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, exported forest produce namely, [name of forest produce], from the Republic of Malawi to [name country] without passing through either a customs post or port.

STATEMENT OF OFFENCE

Re-exporting forest produce without passing through a custom post or port contrary to section 73(1)(a) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, re-exported forest produce namely, [name of forest produce], from the Republic of Malawi to [name country] without passing through either a customs post or port.

STATEMENT OF OFFENCE

Importing forest produce without producing to a customs officer a valid licence to import the forest produce contrary to section 73(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported forest produce, namely [name of forest produce], into the Republic of Malawi without producing to a customs officer a valid licence to import the same.

STATEMENT OF OFFENCE

Exporting forest produce without producing to a customs officer a valid licence to export the forest produce contrary to section 73(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, exported forest produce, namely [name of forest produce], from the Republic of Malawi to [name of country] without producing to a customs officer a valid licence to export the same.

STATEMENT OF OFFENCE

Re-exporting forest produce without producing to a customs officer a valid licence to export the forest produce contrary to section 73(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi, as amended by the Forestry (Amendment) Act, 2019.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, re-exported forest produce, namely [name of forest produce], from the Republic of Malawi to [name of country] without producing to a customs officer a valid licence to re-export the same.

NOTE: Any attempt to commit offences under section 73 above constitutes an offence and shall be drafted the same as above by including the word “attempting” in the statement of offence.

For example:

STATEMENT OF OFFENCE

Attempting to import forest produce without producing to a customs officer a valid licence to import the forest produce contrary to section 73(b) of the Forestry Act, Cap 63:01 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi attempted to import forest produce namely [name of forest produce] into the Republic of Malawi without producing to a customs officer a valid licence to import the same.

CHAPTER THREE

OFFENCES UNDER THE FIREARMS ACT, CAP 14:08 OF THE LAWS OF MALAWI

SECTION 4 OF THE FIREARMS ACT

Importing OR attempting to import a firearm, ammunition without a permit

Exporting OR attempting to export a firearm, ammunition without a permit

STATEMENT OF OFFENCE

[Importing/attempting to import—choose applicable] a firearm without a permit contrary to section 4(1) as read with section 4(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [imported/attempted to import—choose applicable], a firearm, namely [type or identify of firearm], from [name of country] to the Republic of Malawi, without a permit.

STATEMENT OF OFFENCE

[Importing/attempting to import—choose applicable] ammunition without a permit contrary to section 4(1) as read with section 4(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [imported/attempted to import—choose applicable] ammunition, namely [name or type and amount of ammunition], from [name of country] to the Republic of Malawi, without a permit.

STATEMENT OF OFFENCE

[Exporting/attempting to export—choose applicable] a firearm without a permit contrary

to section 4(1) as read with section 4(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported/attempted to export—choose applicable] a firearm, namely [type or identify of firearm], to [name of country], without a permit.

STATEMENT OF OFFENCE

[Exporting/attempting to export—choose applicable] ammunition without a permit contrary to section 4(1) as read with section 4(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [exported/attempted to export—choose applicable] ammunition, namely [name or type and amount of ammunition], to [name of country], without a permit.

SECTION 5 OF THE FIREARMS ACT

Dealing in fire arm or ammunition

STATEMENT OF OFFENCE

Manufacturing a firearm by way of trade or business without a valid dealer’s licence contrary to section 5(1)(a) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, manufactured a firearm, namely [name or type of firearm], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Manufacturing ammunition by way of trade or business without a valid dealer’s licence contrary to section 5(1)(a) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, manufactured ammunition, namely [name or type and quantity of ammunition], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Selling a firearm by way of trade or business without a valid dealer’s licence contrary to section 5(1)(a) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi sold a firearm, namely [name or type of firearm], to [name of buyer], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Selling ammunition by way of trade or business without a valid dealer’s licence contrary to section 5(1)(a) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi sold ammunition, namely [name or type and quantity of ammunition], to [name of buyer], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Transporting a firearm by way of trade or business without a valid licence contrary to

section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, transported a firearm, namely [name or type of the firearm], from [location of departure] to [name of destination], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Transporting ammunition by way of trade or business without a valid licence contrary to section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, transported ammunition, namely [name or type and quantity of ammunition], from [location of departure] to [name of destination], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Repairing a firearm by way of trade or business without a valid dealer’s licence contrary to section 5(1)(a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, repaired a firearm], namely [name or type of firearm], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Testing a firearm by way of trade or business without a valid dealer’s licence contrary to section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, tested a firearm, namely [name or type of firearm], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Testing ammunition by way of trade or business without a valid dealer’s licence contrary to section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, tested ammunition, namely [name or type of ammunition], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Proving a firearm by way of trade or business without a valid dealer’s licence contrary to section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, proved a firearm, namely [name or type of firearm], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Proving ammunition by way of trade or business without a valid dealer’s licence contrary to section 5 (1) (a) as read with section 5 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District

of [name of district] in the Republic of Malawi, proved ammunition, namely [name or type of ammunition], by way of trade or business without a valid dealer’s licence.

STATEMENT OF OFFENCE

Exposing a firearm for [sale/transfer—choose applicable] without a valid dealer’s licence contrary to section 5(1)(b) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, exposed a firearm, namely [name or type of firearm], for [sale/transfer—choose applicable], without a valid dealer’s licence.

STATEMENT OF OFFENCE

Exposing ammunition for [sale/transfer—choose applicable] without a valid dealer’s licence contrary to section 5(1)(b) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, exposed ammunition, namely [name or type of ammunition], for [sale/transfer—choose applicable], without a valid dealer’s licence.

STATEMENT OF OFFENCE

Being found in possession of a firearm for [manufacture/sale/transfer/repair/test/proof—choose applicable] without a valid dealer’s licence contrary to section 5(1)(b) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi,

was found in possession of a firearm, namely [name or type of firearm], for [manufacture/sale/transfer/repair/test/proof—choose applicable] without a valid dealer’s licence.

STATEMENT OF OFFENCE

Being found in possession of ammunition for [manufacture/sale/transfer/repair/test/proof—choose applicable] without a valid dealer’s licence contrary to section 5(1)(b) as read with section 5(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found in possession of ammunition, namely [name or type of ammunition] for [manufacture/sale/transfer/repair/test/proof—choose applicable] without a valid dealer’s licence.

SECTION 9 OF THE FIREARMS ACT

Acquisition and transfer of firearms and ammunition

STATEMENT OF OFFENCE

Acquiring a firearm from another person without a permit in writing contrary to section 9(3)(a) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, acquired a firearm, namely [name or type of firearm], from another person, namely [name of person], without having first obtained a permit in writing authorizing such acquisition.

STATEMENT OF OFFENCE

Transferring a firearm to another person without a permit in writing contrary to section 9(3)(a) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, transferred a firearm, namely [name or type of firearm], to another person, namely [name of person], without having first obtained a permit in writing authorizing such transfer.

STATEMENT OF OFFENCE

Acquiring ammunition from another person without a permit in writing contrary to section 9(3)(a) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, acquired ammunition, namely [name or type and quantity of ammunition], from another person, namely [name of person], without having first obtained a permit in writing authorizing such acquisition.

STATEMENT OF OFFENCE

Transferring ammunition to another person without a permit in writing contrary to section 9(3)(a) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, transferred ammunition, namely [name or type and quantity of ammunition], to another person, namely [name of person], without having first obtained a permit in writing authorizing such transfer.

STATEMENT OF OFFENCE

Failing to comply with a condition to which a permit for the acquisition or transfer of a firearm is subject, contrary to section 9(3)(b) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to comply with a condition, namely [to/not to—choose applicable] [specify the condition], to which a permit for the acquisition or transfer of a firearm, namely [name or type of permit] is subject.

SECTION 12 OF THE FIREARMS ACT

Carrying and possession of firearms and ammunitions

STATEMENT OF OFFENCE

[Carrying/possessing/having control of—choose applicable] a firearm without permit or licence contrary to section 12 (1) as read with section 12 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being an un-exempted person under the Firearms Act, [carried/possessed/had under [his/her] control—choose applicable] a firearm, namely [name or type of firearm], without a permit or licence.

STATEMENT OF OFFENCE

[Carrying/possessing/having control of—choose applicable] ammunition without permit or licence contrary to section 12 (1) as read with section 12 (2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being an un-exempted person under the Firearms Act, [carried/possessed/had under [his/her] control—choose applicable], ammunition, namely

[name or type and quantity of ammunition], without permit or licence.

SECTION 13 OF THE FIREARMS ACT

Matters to be reported

STATEMENT OF OFFENCE

Failing to report the [loss/theft/destruction—choose applicable] of a firearm to the officer in charge of the nearest police station contrary to section 13(1) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having [his/her] firearm, namely [name firearm], [lost/stolen/destroyed—choose applicable], failed to report such [loss/theft/destruction—choose applicable] to the officer in charge of the nearest police station.

STATEMENT OF OFFENCE

Failing to report the [loss/theft/destruction—choose applicable] of ammunition to the officer in charge of the nearest police station contrary to section 13(1) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, having [his/her] ammunition, namely [name or type and quantity of ammunition], [lost/stolen/destroyed—choose applicable], failed to report such [loss/theft/destruction—choose applicable] to the officer in charge of the nearest police station.

SECTION 16 OF THE FIREARMS ACT

Prohibited weapons

STATEMENT OF OFFENCE

[Carrying/possessing—choose applicable] a prohibited weapon contrary to section 16(2) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found [carrying/possessing—choose applicable] a prohibited weapon, namely [describe the prohibited weapon].

SECTION 17 OF THE FIREARMS ACT

Carrying firearm while drunk or disorderly

STATEMENT OF OFFENCE

Being found drunk whilst carrying a firearm contrary to section 17 of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found drunk whilst carrying a firearm, namely [name of the firearm].

STATEMENT OF OFFENCE

Behaving in a disorderly manner whilst carrying a firearm contrary to section 17 of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, behaved in a disorderly manner, namely by [describe disorderly conduct], whilst carrying a firearm, namely [name of the firearm].

SECTION 19 OF THE FIREARMS ACT

Licence or permit to be produced on demand

STATEMENT OF OFFENCE

[Refusing/neglecting—choose applicable] to produce a [license/permit/authority—choose applicable] relating to a firearm upon a demand from an officer contrary to section 19(4) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [refused/neglected—choose applicable] to produce a [license/permit/authority—choose applicable] relating to a firearm, namely [identify the license/permit/authority], upon a demand from an officer, namely, [name of officer].

STATEMENT OF OFFENCE

Refusing to declare one's name and address, while [carrying/in possession of—choose applicable] a firearm, upon demand from an officer contrary to section 19(4) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, while [carrying/in possession of—choose applicable] a firearm, namely [name or type of firearm], refused to declare his name and address upon demand from an officer, namely [name of officer].

STATEMENT OF OFFENCE

Giving a false name and address, while [carrying/in possession of—choose applicable] a firearm, upon demand from an officer contrary to section 19(4) of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, while [carrying/in possession of—choose applicable] a firearm, namely [name or type of

firearm], gave a false name and address upon demand from an officer, namely [name of officer].

SECTION 21 OF THE FIREARMS ACT

Penalty for false statements

STATEMENT OF OFFENCE

Knowingly making a false statement for the purpose of obtaining a permit, licence or other authority under the Firearms Act contrary to section 21 of the Firearms Act, Cap 14:08 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, made a false statement, namely [describe the false statement], for the purpose of obtaining a [permit/licence/other authority—choose applicable] under the Firearms Act.

CHAPTER FOUR

OFFENCES UNDER THE PENAL CODE, CAP 7:01 OF THE LAWS OF MALAWI

SECTION 99 OF THE PENAL CODE

Personating public officers

STATEMENT OF OFFENCE

Personating a person employed in the public service contrary to section 99(a) of the Penal Code, Cap 7:01 of the Laws of Malawi.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, personated a person employed in the public service, namely [describe the position or nature of employment of the person employed in public service], on an occasion when the latter is required to [do an act/attend in a place—choose applicable] by virtue of his or her employment, namely [describe the occasion and functions which the person employed in the public service was supposed to perform, or attend in a particular place, by virtue of his or her employment].

STATEMENT OF OFFENCE

Falsely representing oneself as a person employed in the public service, contrary to section 99(b) of the Penal Code.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, falsely represented [himself/herself] to be a person employed in the public service, namely [describe the position or nature of employment of the person employed in the public service], and assumed to [do an act/attend in a place for the purpose of doing an act—choose applicable] authorized by virtue of such public employment, namely [describe the act and/or place authorized by virtue of his or her public employment].

SECTION 124 OF THE PENAL CODE

Soliciting, etc., to break the law

STATEMENT OF OFFENCE

[Soliciting/inciting—choose applicable] a person to fail to comply with or to contravene any law in force in Malawi or in any part thereof, contrary to section 124(1)(a) of the Penal Code.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [solicited/incited- choose applicable] another person, namely [name person], to fail to comply with or to contravene a law or part of a law in force in Malawi, namely [specify the law], [in writing/by spoken words/by behavior/ otherwise—choose applicable], namely by [specify manner of solicitation/inciting conduct].

STATEMENT OF OFFENCE

[Indicating/implying—choose applicable] to any person that it would be incumbent or desirable to fail to comply with or to contravene any law in force in Malawi or in any part thereof contrary to section 124(1)(b) of the Penal Code.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [indicated/implied- choose applicable] to another person, namely [name person], that it would be [incumbent/desirable-choose applicable] to fail to comply with or to contravene a law or part of a law in force in Malawi, namely [specify the law], [in writing/by spoken words/by behavior/ otherwise—choose applicable], namely by [specify manner of indication/implication].

SECTION 125 OF THE PENAL CODE

Soliciting public officers, etc., to fail to carry out their duties

STATEMENT OF OFFENCE

[Soliciting/inciting- choose applicable] a person employed in the public service to fail to carry out any of [his/her] duties, contrary to section 125(a) of the Penal Code.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [solicited/incited- choose applicable] a person employed in the public service, namely [name person], employed as [describe the position], to fail to carry out any of [his/her] duties, namely [describe duty at issue], [in writing/by spoken words/by behavior/otherwise—choose applicable], namely by [specify manner of solicitation/inciting conduct].

STATEMENT OF OFFENCE

[Soliciting/inciting- choose applicable] a Chief or any person in the service of a Chief to carry out any of [his/her] duties, contrary to section 125(b) of the Penal Code.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [solicited/incited- choose applicable] a person employed as [a Chief/any person in the service of a Chief—choose applicable], namely [name person], to fail to carry out any of [his/her] duties, namely [describe duty at issue], [in writing/by spoken words/by behavior/ otherwise—choose applicable], namely by [specify manner of solicitation/inciting conduct].

CHAPTER FIVE

OFFENCES UNDER CUSTOMS AND EXCISE ACT, CAP 42:01 OF THE LAWS OF MALAWI

SECTION 16 OF THE CUSTOMS AND EXCISE ACT

Powers in respect of conveyances etc.

STATEMENT OF OFFENCE

[Removing/breaking/damaging/defacing/destroying/cutting away/casting adrift/maliciously shooting at/any way interfering/tampering with—choose applicable] a [lock/seal/sign/mark/fence/barrier/rope/chain/anchor/bouy/conveyance/other thing—choose applicable] used by the Department of Customs and Excise for any purpose under the customs laws, contrary to section 16(7) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [removed/broke/damaged/defaced/destroyed/cut away/casted adrift/ maliciously shot at/any way interfered/tampered with—choose applicable] a [lock/seal/sign/mark/fence/barrier/rope/chain/anchor/bouy/conveyance/other thing—choose applicable] used by the Department of Customs and Excise for a purpose under the customs laws, namely [specify the purpose].

SECTION 21 OF THE CUSTOMS AND EXCISE ACT

Prohibited and restricted imports

STATEMENT OF OFFENCE

Importing any goods contrary to the provisions of any written law prohibiting or restricting such goods unless authorized by the Minister for scientific study or evidence in judicial proceedings, contrary to part 4, section 21(1) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, imported a good, namely [describe good imported], contrary to provisions of a written law prohibiting or restricting such goods, namely [specify provision/law violated].

SECTION 28 OF THE CUSTOMS AND EXCISE ACT

Arrival of vehicles other than trains

STATEMENT OF OFFENCE

In charge of an arriving vehicle and [failing to proceed to the nearest port to report his arrival/unloading goods/passengers before reporting to port/failing to declare any goods/failing to produce any relevant book or document/failing to answer any relevant question put to him by an officers—choose applicable], contrary to part 4, section 28(a) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], who was in charge of [identify arriving vehicle], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to [proceed to the nearest port/report his arrival/declare goods/produce a relevant book or document/answer question—choose applicable] upon arrival to the Republic of Malawi.

SECTION 29 OF THE CUSTOMS AND EXCISE ACT

Arrival of persons

STATEMENT OF OFFENCE

Arriving from a foreign port and [failing to proceed to the nearest port to report arrival/unloading any goods before reporting his arrival/failing to declare any goods/failing to produce any relevant book or document/failing to answer any relevant question put to him by an officer- choose

applicable], contrary to part 4, section 29 of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to [proceed to the nearest port/report his arrival/declare goods/produce a relevant book or document/answer question- choose applicable] upon arrival to the Republic of Malawi from a foreign port, namely [specify foreign port].

SECTION 49 OF THE CUSTOMS AND EXCISE ACT

Carriage coastwise

STATEMENT OF OFFENCE

[Unloading/loading—choose applicable] goods subject to customs control from a coastwise vehicle or aircraft at a place other than a port and without the Controller's approval contrary to part 4, section 49(1) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [loaded/unloaded—choose applicable] certain goods, namely [specify goods], from a [aircraft/vessel—choose applicable and identify by registered name, number, and/or any additional identifying details], at a place other than a port, specifically at [state place where goods were loaded/unloaded], without the approval of the Controller.

SECTION 49 OF THE CUSTOMS AND EXCISE ACT

Carriage coastwise

STATEMENT OF OFFENCE

Failure by the master or agent of a coastwise vehicle or aircraft to declare any goods intended

for carriage coastwise in the appropriate manner contrary to part 4, section 49(3) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the [master/agent—choose applicable] of a coastwise [vehicle/aircraft—choose applicable], failed to declare certain goods, namely [identify goods], in the manner prescribed by the Customs and Excise Act, namely by [describe how the goods were not properly declared].

SECTION 52 OF THE CUSTOMS AND EXCISE ACT

Loading of goods

STATEMENT OF OFFENCE

Loading goods onto an aircraft or vessel for exportation at a place other than a port without the approval of the proper officer contrary to part 4, section 52(1) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, loaded goods, namely [specify goods], onto an [aircraft/vessel—choose applicable and identify by registered name, number, and/or any additional identifying details], for exportation at [state place where goods were loaded], which is not a port, and without the approval of the proper officer, namely [name of the proper officer].

SECTION 54 OF THE CUSTOMS AND EXCISE ACT

Departure of aircraft and vessels

STATEMENT OF OFFENCE

Causing an aircraft or vessel to depart to a foreign port from an unapproved port without the prior

permission of the Controller, contrary section 54(1) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the [master/agent—choose applicable] of the [aircraft/vessel—choose applicable and identify by registered name, number, and/or any additional identifying details], caused said [aircraft/vessel—choose applicable] to depart for a foreign port from an unapproved port, namely [name of port], without the prior permission of the Controller.

STATEMENT OF OFFENCE

Prior to departure from the Republic of Malawi to a foreign part via aircraft or vessel, [failing to make a declaration in respect of an aircraft or vessel, and its cargo on board, in such a manner or form as prescribed by the proper officer/failing to produce any relevant book or document/failing to answer truthfully any relevant questions/failing to obtain outward clearance—choose applicable], contrary section 54(2) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the [master/agent—choose applicable] of the [aircraft/vessel—choose applicable and identify by registered name, number, and/or any additional identifying details], failed to [make a declaration in respect of an aircraft or vessel, and its cargo on board, in such a manner or form as prescribed by the proper officer/failed to produce any relevant book or document as required by an officer/failed to answer truthfully relevant questions asked by an officer/failed to obtain outward clearance for the intended voyage from the proper officer—choose applicable], prior to departure from the Republic of Malawi to a foreign part, namely [insert name of foreign port].

SECTION 55 OF THE CUSTOMS AND EXCISE ACT

Departure of vehicles and persons

STATEMENT OF OFFENCE

Prior to crossing the frontier overland from the Republic of Malawi to a foreign port via vehicle, [failing to report intended departure to the proper officer at the nearest port to the point of departure/ failing to make a declaration in respect of the vehicle, and its cargo on board, in such a manner or form as prescribed by the proper officer/failing to produce any relevant book or document//failing to answer truthfully any relevant questions/moving the vehicle without prior permission of the proper officer—choose applicable], contrary section 55(1) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the person in charge of a vehicle, namely [identify vehicle, including plate numbers], [failed to report the intended departure to the proper officer at the nearest port to the point of departure/failed to make a declaration in respect of the vehicle, and its cargo on board, in such a manner or form as prescribed by the proper officer/failed to produce any relevant book or document/failed to answer truthfully a relevant question/moved the vehicle without prior permission of the proper officer—choose applicable], prior to crossing the frontier overland from the Republic of Malawi to a foreign part, namely [insert name of foreign port].

SECTION 132 OF THE CUSTOMS AND EXCISE ACT

Offences in respect of persons

STATEMENT OF OFFENCE

[Failing/neglecting—choose applicable] to [give an answer to a question/supply information—choose applicable] when required by or in accordance with the customs laws to answer a question or supply information, contrary to section 132(a) of the Customs and Excise Act as

read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [failed/neglected] to [give an answer to a question/supply information], namely [specify question/information], upon being required to do so by or in accordance with the customs laws, namely [specify provision or requirement authorizing or mandating provision of information].

STATEMENT OF OFFENCE

Making an [untrue/incorrect/false/incomplete—choose applicable] [answer/representation—choose applicable] when required by or in accordance with the customs laws to answer a question or supply information, contrary to section 132(a) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, made an [untrue/incorrect/false/incomplete—choose applicable], namely [specify improper answer/representation], upon being required to [answer a question/supply information—choose applicable] by or in accordance with the customs laws, namely [specify provision or requirement authorizing or mandating provision of information].

STATEMENT OF OFFENCE

[Failing/neglecting—choose applicable] to comply with a provision or condition required by or in accordance with the customs laws, contrary to section 132(b) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location,

using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [failed/neglected—choose applicable] to comply with a provision or condition, namely [state a provision or condition], required by or in accordance with the customs law.

STATEMENT OF OFFENCE

[Assaulting/Abusing/Resisting/Obstructing/Hindering/Interfering with—choose applicable] an [officer/police officer/person aiding an officer/person assisting an officer/person aiding a police officer/person assisting a police officer—choose applicable], in the exercise of [his/her] powers or performance of [his/her] duties under the customs law, contrary to section 132(c) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [assaulted/abused/resisted/obstructed/hindered/interfered with—choose applicable] an [officer/police officer/person aiding an officer/person assisting an officer/person aiding a police officer/person assisting a police officer—choose applicable], namely [name or officer or person], in the exercise of [his/her] powers or in the performance of [his/her] duties under the customs laws, by [specify defendant's wrongful action].

STATEMENT OF OFFENCE

[Counterfeiting/using without authority—choose applicable] a [seal/signature/initials/other mark—choose applicable] of or used by an officer for a purpose relating to the customs laws, contrary to section 132(e) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [counterfeited/used without authority—choose applicable] a [seal/signature/initials/other mark—choose applicable] of or used by an officer for purposes relating to the customs laws, namely

[identify seal/signature/initials/other mark], by [briefly describe the wrongful act done by the defendant].

STATEMENT OF OFFENCE

[Removing/breaking/damaging/defacing/destroying/cutting away/casting adrift/shooting at maliciously/interfering with/tampering with—choose applicable] a [lock/seal/signature/mark/fence/barrier/rope/chain/anchor/bouy/conveyance/other thing—choose applicable] used by the Department for any purpose under the customs law, contrary to section 132(f) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi. [removed/broke/damaged/defaced/destroyed/cut away/cast adrift/shot at maliciously/interfered with/tampered with—choose applicable] a [lock/seal/signature/mark/fence/barrier/rope/chain/anchor/bouy/conveyance/other thing- choose applicable], namely [identify item], used by the Department for a purpose under the customs law, namely to [specify purpose].

STATEMENT OF OFFENCE

Failure to stop at a customs barrier established in accordance with section 16(7) of the Customs and Excise Act, contrary to section 132(g) of Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, failed to stop at a customs barrier established in accordance with section 16(7) of the Customs and Excise Act.

STATEMENT OF OFFENCE

Falsely holding oneself out to be an officer, contrary to section 132(h) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, falsely held [himself/herself] out to be an officer by [briefly describe action taken by defendant].

STATEMENT OF OFFENCE

Conspiring with another to commit an offence against the customs laws, contrary to section 132(j) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, conspired with another, namely [name the other person(s)], to commit an offence against the customs laws, namely [specify the offence(s)].

SECTION 134 OF THE CUSTOMS AND EXCISE ACT

Offences in respect of goods

STATEMENT OF OFFENCE

[Importing/exporting/carrying coastwise or in transit/loading/unloading/removing/possessing/conveying—choose applicable] goods contrary to customs law, contrary to section 134(a) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [imported/exported/carried coastwise or in transit/loaded/unloaded/removed/possessed/conveyed—choose applicable] goods, namely [identify goods], contrary to the provisions of the customs laws, namely by [briefly describe defendant's acts and which customs provisions they violated].

STATEMENT OF OFFENCE

[Buying/receiving/harboring/offering for sale/dealing in/possessing—choose applicable] goods subject to customs control, other than in accordance with the customs laws, contrary to section 134(c) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [bought/received/harbored/offered for sale/dealt in/possessed—choose applicable] goods subject to customs control, namely [specify the goods], other than in accordance with the customs laws.

STATEMENT OF OFFENCE

[Concealing/moving/altering/damaging/destroying/removing/disposing of/interfering with/tampering with—choose applicable] goods subject to customs control, other than in accordance with the customs laws, contrary to section 134(d) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [concealed/moved/altered/damaged/destroyed/removed/disposed of/interfered with/tampered with—choose applicable] goods subject to customs control, namely [specify the goods], other than in accordance with the customs laws.

STATEMENT OF OFFENCE

[Offering for sale/dealing in/possessing—choose applicable] goods under the pretense that they are smuggled goods, contrary to section 134(e) of the Customs and Excise Act as read with section 143 of the Act.

PARTICULARS OF OFFENCE

[Name of defendant] on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi

[offered for sale/dealt in/possessed—choose applicable] certain goods, namely [specify the goods], under the pretense that they were smuggled goods.

SECTION 136 OF THE CUSTOMS AND EXCISE ACT

Offences in respect of conveyances

STATEMENT OF OFFENCE

Using a conveyance having a [false bulkhead/false bow or stern/double side or bottom/any secret or disguised place—choose applicable] adapted for the purpose of smuggling goods, contrary to section 136 of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, used a conveyance, namely a [identify conveyance/vessel/vehicle/aircraft], with a [false bulkhead/false bow or stern/double side or bottom/any secret or disguised place—choose applicable, offering description as necessary], adapted for the purpose of smuggling goods.

SECTION 137 OF THE CUSTOMS AND EXCISE ACT

Offences by master or persons in charge of conveyances

STATEMENT OF OFFENCE

Using a conveyance for smuggling or the carriage of smuggled goods contrary to section 137(2)(a) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the person in charge of a conveyance, namely a [identify conveyance/vessel/vehicle/aircraft], used such conveyance to [smuggle/carry smuggled—choose applicable] goods,

namely [describe goods], by [briefly describe acts constituting smuggling].

STATEMENT OF OFFENCE

Failing to stop for boarding contrary to section 137(2)(b) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the person in charge of a conveyance, namely a [identify conveyance/vessel/vehicle/aircraft], failed to stop for boarding when required to do so by [identify officer/circumstances requiring stop].

STATEMENT OF OFFENCE

[Throwing overboard/staving/destroying—choose applicable] any goods to prevent seizure contrary to section 137(2)(d) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the person in charge of a conveyance, namely [identify conveyance], [threw overboard/staved/destroyed-choose applicable] goods, namely [identify goods] to prevent those goods from being seized by an officer, namely [identify officer(s)].

SECTION 138 OF THE CUSTOMS AND EXCISE ACT

Offences in respect of customs areas

STATEMENT OF OFFENCE

Removing goods from a customs area without permission contrary to section 138(d) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, removed goods, namely [identify goods removed], from a customs area, namely [state customs area], without permission.

SECTION 139 OF THE CUSTOMS AND EXCISE ACT

Offences by or in relation to officers

STATEMENT OF OFFENCE

As an officer in connection with [his/her] duties, [taking/asking for—choose applicable], either directly or indirectly, any [payment/reward/promise of payment/promise of reward—choose applicable] to which [he/she] is not lawfully entitled to, contrary to section 139(1)(a) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being an officer, namely a [state title or position], [took/asked for—choose applicable] a [payment/reward/promise of payment/promise of reward—choose applicable], namely [describe payment/reward received or offered], which [he/she] was not lawfully entitled to claim or receive.

STATEMENT OF OFFENCE

[Offering/giving—choose applicable], either directly or indirectly, any [payment/reward/promise of payment/promise of reward—choose applicable] to an officer, contrary to section 139(2)(a) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [gave/offered—choose applicable] a [payment/

reward/promise of payment/promise of reward—choose applicable], namely [describe payment/reward received or offered], to an officer, namely [identify officer].

NOTE: Under section 133(c), any person who attempt to commit an offence under the Customs and Excise Act “shall be deemed to have committed such offence and shall be punishable as if he had himself committed such offence”. Attempts shall be drafted the same as above but with inclusion of the word “attempting” in the statement of offence and particulars of offence.

Example:

STATEMENT OF OFFENCE

Attempting to [throw overboard/stave/destroy—choose applicable] any goods to prevent seizure contrary to section 137(2)(d) of the Customs and Excise Act as read with section 143 of the Customs and Excise Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being the person in charge of a conveyance, namely [identify conveyance], attempted to [throw overboard/stave/destroy—choose applicable] goods, namely [identify goods], to prevent those goods from being seized by an officer, namely [identify officer(s)].

CHAPTER SIX

OFFENCES UNDER THE CORRUPT PRACTICES ACT, CAP 7:04 OF THE LAWS OF MALAWI

SECTION 13 OF THE CORRUPT PRACTICES ACT

Obstructing of officers of the Bureau

STATEMENT OF OFFENCE

[Assaulting/resisting/threatening/obstructing—choose applicable] the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau in the execution of [his/her] duties, contrary to section 13(a) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [assaulted/resisted/threatened/obstructed—choose applicable] the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau in the execution of [his/her] duties, by [briefly describe wrongful conduct].

STATEMENT OF OFFENCE

Unlawfully [hindering/delaying—choose applicable] the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau in effecting entry into or upon a [premise/boat/aircraft/vehicle—choose applicable] contrary to section 13(b) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, unlawfully [hindered/delayed—choose applicable] the [Director/Deputy Director/other officer choose applicable] in effecting entry [into/upon—choose applicable] a [premises/boat/aircraft/

vehicle—choose applicable], by [briefly describe hindering/delaying conduct].

SECTION 14 OF THE CORRUPT PRACTICES ACT

False reports of information to the Bureau

STATEMENT OF OFFENCE

[Giving/causing to be given—choose applicable] to the Anti-Corruption Bureau [testimony/information/report—choose applicable] which is false in any material particular in relation to any matter under investigation by the Bureau, contrary to section 14(1)(a) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, when required to answer a question put to [him/her] by an officer exercising [his/her] duties under the Corrupt Practices Act, [gave/caused to be given—choose applicable] false [testimony/information/report—choose applicable] in relation to a matter under investigation by the Anti-Corruption Bureau, namely [give particulars of the false testimony/information/report].

STATEMENT OF OFFENCE

Misleading the [Director/Deputy Director/other officer- choose applicable] of the Anti-Corruption Bureau by [giving/causing to be given—choose applicable] to [him/her—choose applicable] false information contrary to section 14(1)(c) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, misled the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau by [giving/causing to be given—choose applicable] to [him/her] false information, namely [describe false information].

STATEMENT OF OFFENCE

Misleading the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau by [making/causing to be made—choose applicable] to [him/her—choose applicable] false [statements/accusations—choose applicable] contrary to section 14(1)(c) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, misled the [Director/Deputy Director/other officer—choose applicable] of the Anti-Corruption Bureau by [making/causing to be made—choose applicable] to [him/her—choose applicable] false [statements/accusations—choose applicable], namely [describe false statements/accusations].

SECTION 24 OF THE CORRUPT PRACTICES ACT

Corrupt practices by or with public officers

STATEMENT OF OFFENCE

As a public officer, acting [alone/in conjunction with another—choose applicable], corruptly [soliciting/accepting/obtaining; agreeing to accept; attempting to receive—choose applicable] an advantage [for himself/for herself/for another—choose applicable] as an inducement or reward for [doing/forbearing to do—choose applicable] something in relation to a matter or transaction with which a public body is or may be concerned, contrary to section 24(1) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a public officer, acting [alone/in conjunction with another person—choose applicable; if in conjunction with another person, name other person], corruptly [solicited/accepted/obtained; agreed to accept; attempted to receive—choose applicable] an advantage [for himself/for herself/for another person—choose applicable; if for another person, name other

person], namely [specify advantage], as an [inducement/reward—choose applicable], for [doing/forbearing to do] something in relation to a matter or transaction with which a public body is or may be concerned, namely [specify matter or transaction].

STATEMENT OF OFFENCE

Acting [alone/in conjunction with another—choose applicable], corruptly [giving/promising/offering—choose applicable] an advantage to a public officer, for the benefit of [that public officer/another public officer], as an inducement or reward for [doing/forbearing to do—choose applicable] something in relation to a matter or transaction with which a public body is or may be concerned, contrary to section 24(2) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, acting [alone/in conjunction with another person—choose applicable; if in conjunction with another person, name other person], corruptly [gave/promised/offered—choose applicable] an advantage, namely [specify advantage], to a public officer, namely [name officer], for the benefit of [said public officer/another public officer—choose applicable; if for the benefit of another officer, name such officer], as an [inducement/reward—choose applicable], for [doing/forbearing to do] something in relation to a matter or transaction with which a public body is or may be concerned, namely [specify matter or transaction].

SECTION 25 OF THE CORRUPT PRACTICES ACT

Corrupt use of official powers and procuring corrupt use of official powers

STATEMENT OF OFFENCE

As a public officer concerned with a matter or transaction falling within, or connected with, [his/her] jurisdiction, powers, duties or functions, corruptly [soliciting/accepting/obtaining; agreeing to accept; attempting to receive or obtain—choose applicable], [for himself/for herself/for another—choose applicable], an advantage in relation to such matter or

transaction, contrary to section 25(1) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, being a public officer concerned with a matter or transaction falling within, or connected with, [his/her] jurisdiction, powers, duties or functions, namely [identify matter or transaction], corruptly [solicited/accepted/obtained; agreed to accept; attempted to receive or obtain—choose applicable] an advantage, namely [identify advantage], [for himself/herself/for another—choose applicable; if for another, name such person], in relation to such matter or transaction.

STATEMENT OF OFFENCE

Corruptly [giving/promising/offering—choose applicable], directly or indirectly, an advantage to a public officer in relation to a matter or transaction with which [he/she] is concerned and which falls within the scope of the offer's authority, jurisdiction, powers, duties, or functions, contrary to section 25(2) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, corruptly [gave/promised/offered—choose applicable] an advantage, namely [specify advantage], to a public officer, namely [name officer], in relation to a matter or transaction with which [name of defendant] was concerned and which fell within the scope of said offer's authority, jurisdiction, powers, duties, or functions, namely [specify matter or transaction].

SECTION 25A OF THE CORRUPT PRACTICES ACT

Public officers performing functions corruptly

STATEMENT OF OFFENCE

Corruptly [exercising/performing—choose applicable] one's powers, duties, or functions falling within or connected with the jurisdiction,

powers, duties, or functions of one's office as a public officer, contrary to section 25A(1) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, acted corruptly when [performing/exercising—choose applicable] [his/her] [powers/duties/functions—choose applicable], which fell within or were connected with [his/her] [jurisdiction/powers/duties/functions-choose applicable], by [describe corrupt action taken by officer].

STATEMENT OF OFFENCE

[Using one's influence on/Inducing/Persuading—choose applicable] a public officer to act corruptly when exercising or performing [his/her] jurisdiction, powers, duties, or functions for a matter or transaction, contrary to section 25A(2) of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [influenced/induced/persuaded—choose applicable] a public officer, namely [name of officer], to act corruptly by [describe corrupt act] when said officer was [exercising/performing—choose applicable] [his/her] [jurisdiction/powers/duties/functions—choose applicable].

SECTION 32 OF THE CORRUPT PRACTICES ACT

Possession of unexplained property

STATEMENT OF OFFENCE

Being a public officer, maintaining a standard of living above that which is commensurate with one's present or past official emoluments or other known sources of income, contrary to section 32(2)(a) of the Corrupt Practices Act as read with section 4 of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, without a reasonable explanation, maintained a standard of living above that which is commensurate with [his/her] present or past official emolument or other known sources of income.

STATEMENT OF OFFENCE

Being a public officer, [having/having had—choose applicable] under one's [control/possession—choose applicable] pecuniary resources or property reasonably suspected of having been corruptly acquired, contrary to section 32(2)(b) of the Corrupt Practices Act as read with section 4 of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, without giving a reasonable explanation, was in [control/possession—choose applicable] of pecuniary resources or property, namely [specify], disproportionate to [his/her] present or past official emoluments or other known sources of income.

STATEMENT OF OFFENCE

As a public officer, being in receipt directly or indirectly of the benefit of any services which may reasonably be suspected of having been received corruptly or in circumstances which amount to an offense under the Corrupt Practices Act, contrary to section 32(2)(c) of the Corrupt Practices Act as read with section 4 of the Corrupt Practices Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, without a reasonable explanation, was in receipt directly or indirectly of the benefit of services, namely [describe services], which [he/she] may reasonably be suspected of having received [corruptly/in circumstances which amount to an

offense under the Corrupt Practices Act – choose applicable; if latter, name offense].

CHAPTER SEVEN

OFFENCES UNDER THE FINANCIAL CRIMES ACT (No. 14 of 2017)

SECTION 42 OF THE FINANCIAL CRIMES ACT

Money laundering

STATEMENT OF OFFENCE

Converting or transferring property with the aim of concealing or disguising the illicit origin of such property, while knowing or having reasonable grounds to believe that such property, in whole or in part, directly or indirectly, represented proceeds of a predicate offense, contrary to section 42(1)(a) of the Financial Crimes Act 2017 as read with section 42(3).

PARTICULARS OF OFFENCE

[Name of defendant (natural person or corporation)], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, knowing or having reasonable grounds to believe that certain property, namely [specify the property], in whole or in part, directly or indirectly, represented proceeds of a predicate offense, namely [name offense], [converted/transferred-choose applicable] that property with the aim of concealing or disguising its illicit origin.

STATEMENT OF OFFENCE

Converting or transferring property with the aim of evading legal consequences, while knowing or having reasonable grounds to believe that such property, in whole or in part, directly or indirectly, represented proceeds of a predicate offense, contrary to section 42(1)(a) of the Financial Crimes Act 2017 as read with section 42(3).

PARTICULARS OF OFFENCE

[Name of defendant (natural person or corporation)], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, knowing or having reasonable grounds to believe that certain property, namely [specify the property], in whole

or in part, directly or indirectly, represented proceeds of a predicate offense, namely [name offense], [converted/transferred- choose applicable] that property with the aim of aiding [himself/herself/another—choose applicable; if “another,” name such person] evade the legal consequence flowing from [his/her] involvement in the commission of the predicate offense.

STATEMENT OF OFFENCE

Concealed or disguised the true nature, origin, location, disposition, movement or ownership of property, while knowing or having reasonable grounds to believe that such property, in whole or in part, directly or indirectly, represented proceeds of a predicate offense, contrary to section 42(1)(b) of the Financial Crimes Act 2017 as read with section 42(3).

PARTICULARS OF OFFENCE

[Name of defendant (natural person or corporation)], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, knowing or having reasonable grounds to believe that certain property, namely [specify the property], in whole or in part, directly or indirectly, represented proceeds of a predicate offense, namely [name offense], concealed or disguised the true [nature/origin/location/disposition/movement/ownership—choose applicable] of that property.

STATEMENT OF OFFENCE

[Acquiring/Possessing/Using—choose applicable] property, while knowing or having reasonable grounds to believe that such property, in whole or in part, directly or indirectly, represented proceeds of a predicate offense, contrary to section 42(1)(c) of the Financial Crimes Act 2017 as read with section 42(3).

PARTICULARS OF OFFENCE

[Name of defendant (natural person or corporation)], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, knowing or having reasonable grounds to believe that certain property, namely [specify the property], in whole or in part, directly or indirectly, represented proceeds of a predicate offense, namely [name offense], [acquired/possessed/used—choose applicable] such property.

CHAPTER EIGHT

OFFENCES UNDER THE IMMIGRATION ACT, CAP 15:03 OF THE LAWS OF MALAWI

SECTION 13 OF THE IMMIGRATION ACT

Persons required to appear before immigration officer

STATEMENT OF OFFENCE

Failing upon arrival at the [airport/border—choose applicable] to present oneself to the nearest immigration officer contrary to section 13(1) of the Immigration Act of 1964 as read with section 37.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year], failed to present [himself/herself] to the nearest immigration officer immediately upon arrival or, to the extent that immediate presentation was impracticable, within 24 hours of arrival to the Republic of Malawi, which occurred at [insert airport or location where border was crossed].

SECTION 21 OF THE IMMIGRATION ACT OF 1964

Restrictions on immigration

STATEMENT OF OFFENCE

[Entered/Remained in] Malawi without being in possession of a current permanent residence permit, temporary residence permit, temporary employment permit, business residence permit, student permit, or visitor permit, contrary to section 21(1) of the Immigration Act of 1964 as read with section 37.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date- e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [entered the Republic of Malawi/was found in the Republic of Malawi—choose applicable] while

not in possession of either a current permanent residence permit, a current temporary residence permit, a current temporary employment permit, a current business residence permit, a current student permit, or a current visitor permit.

SECTION 33 OF THE IMMIGRATION ACT OF 1964

Re-entry of prohibited immigrant

STATEMENT OF OFFENCE

Returning to Malawi after being restricted from entering or having been removed from or ordered to leave Malawi, contrary to section 33 of the Immigration Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, was found to be present in Malawi after [being restricted from entering/having been removed from/ordered to leave Malawi—choose applicable], namely through [provide specifics re prior order or action, e.g., title of order and date].

SECTION 36 OF THE IMMIGRATION ACT OF 1964

Re-entry of prohibited immigrant

STATEMENT OF OFFENCE

Aiding or abetting a person, whose entry into or presence in Malawi is contrary to the Immigration Act, to enter or remain in Malawi, contrary to section 36(1)(a) of the Immigration Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, aided or abetted a person, namely [name person], to [enter/remain in—choose applicable] Malawi, even though such person’s [entry into/presence in] Malawi was contrary to the Immigration Act as a result of [specify reason why person could not enter into or remain in Malawi], by [specify manner of aiding/abetting].

STATEMENT OF OFFENCE

Aiding or abetting a person, who has been ordered to be removed from Malawi under the Immigration Act, to evade such order, contrary to section 36(1)(b) of the Immigration Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, aided or abetted a person, namely [name person], to evade an order calling for that person’s removal from Malawi, namely [give details of order], by [specify manner of aiding/abetting].

STATEMENT OF OFFENCE

Harbouring a person who has been ordered to be removed from Malawi under the Immigration Act, contrary to section 36(1)(c) of the Immigration Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, harboured a person, namely [name person], subject to an order for removal from Malawi, namely [give details of order], by [specify manner of harbouring].

STATEMENT OF OFFENCE

[Committing a fraudulent act/making a false representation by conduct, statement or otherwise—choose applicable] for the purpose of facilitating or assisting the entry of [himself/herself/another person—choose applicable] into Malawi, contrary to section 36(2) of the Immigration Act.

PARTICULARS OF OFFENCE

[Name of defendant], on or about the [date—e.g. 1st, 2nd, etc.] day of [month] 20 [year] at [name of village/trading centre/other location, using most specific designation possible] in the District of [name of district] in the Republic of Malawi, [committed a fraudulent act/made a false representation by conduct, statement or otherwise—choose applicable], namely by [specific fraudulent act/false representation], for

the purpose of facilitating or assisting the entry of [himself/herself/another person—choose applicable; if other person, provide name] into Malawi.

EXPERT TESTIMONY – GUIDE FOR PROSECUTORS

Expert testimony plays a critical role in prosecutions involving wildlife crimes. From the prosecutor’s perspective, success or failure often turns on the ability to establish facts that are technical in nature. Thankfully, Malawian law generally embraces the use of expert opinion to prove any conclusion that depends upon specialized skill, knowledge, or experience. For example, a prosecutor may rely on expert testimony to prove the following:

- whether a specimen of ivory is synthetic or genuine
- whether a specimen is a part or derivative of a protected species
- questions of valuation, etc.

Nevertheless, prosecutors must analyze several key questions to ensure effective use of expert testimony and to avoid surprises in court. These questions include

- Do I need an expert witness for my case? Does the person I have in mind qualify as an expert?
- What happens if my expert resides in a foreign country? Must the expert appear in Malawi for court proceedings?
- What are the key contents of an expert report?
- In what ways might defense counsel challenge my expert and/or her testimony? How can I prepare my expert to respond to those challenges?

Question 1: Do I need an expert witness for my case? Does the person I have in mind qualify?

Section 190 of the Malawi Criminal Procedure and Evidence Code (“Code”) provides that expert testimony is permitted in Malawi when the court or jury has to form an “opinion upon a point of foreign law, or of science, or art, or as to the identity of handwriting or fingerprints[.]”¹ Consistent with this provision, Section 180 authorizes the submission of a written expert report as evidence when any relevant fact or opinion depends upon an examination or process that requires skill, experience, or knowledge.² Although these two provisions employ slightly different language, courts should interpret them harmoniously; there should be no situation where expert testimony is valid under Section 190 but not under Section 180 (and vice-versa).

¹ Criminal Procedure and Evidence Code, §190(1).

² Id. at §180(1).

THE ESSENTIALS

Use expert testimony when specialized skill, experience, or knowledge is necessary to prove:

- a point of foreign law,
- a point of science,
- a point of art,
- the identify of handwriting or fingerprints, or
- any other conclusion that depends upon specialized knowledge, examination or process.

WILDLIFE CASE EXAMPLE

Imagine that the government has charged a man with unlawfully poaching and exporting ivory from Malawi to China. The evidence against the accused is overwhelming, but in the hope of receiving a lesser sentence, defense counsel argues that the ivory is not worth very much money. In this situation, the prosecutor might offer expert testimony to show that (a) China has outlawed domestic ivory markets (a point of foreign law), and (b) the black-market price in China is \$X per kilogram (a conclusion that depends upon specialized knowledge).

After deciding that expert testimony is necessary for the case, a prosecutor must demonstrate that the expert has the requisite skills, experience, or knowledge such that the judge and/or jury can rest assured that the witness is qualified to address the topic at hand. To meet the threshold of admissibility in this regard, the witness must be skilled in the relevant area of expertise, although this skill need not be based in formal education. Rather, the Code provides that such skill may derive from “knowledge or experience sufficiently organized or recognized as a reliable body of knowledge or experience[.]”³ In general, this language suggests a liberal approach to expert qualifications. Accordingly, Malawi courts should welcome testimony offered by individuals who have developed know-how through hands-on experience, even if lacking a formal degree or other traditional indicia of mastery.⁴

³ Id. at §190(1); see also id. at §180(1) (expert report admissible when authored by person having the relevant “skill”).

⁴ See, e.g., *City of Evanston v. Northern Illinois Gas Company*, 381 F.Supp.3d 941, 949 (N.D. Ill. 2019) (allowing witness to offer expert testimony on gas migration and isotopic analysis of gas even though witness had “no formal education or training in molecular biology or microbiology, and no graduate education in organic chemistry”).

PRACTICE POINTER

When describing an expert’s qualifications and experience, whether in a written report or through oral testimony, it is best to err on the side of over-inclusion. Prosecutors should ensure that experts include all education, including courses and workshops that did not lead to a degree, and work experience. The expert should describe his or her qualifications in specific terms to demonstrate that the expert is qualified to conduct the particular analysis at issue in the case.

WILDLIFE CASE EXAMPLE

A DNPW officer presented as an expert on identification of hippo teeth might point to the following experience and qualifications:

- Years of experience on the job and relevant job responsibilities, highlighting anti-poaching and anti-trafficking work in general, and work related to hippos and hippo specimens in particular.
- Experience in enforcement operations; assistance provided to police and/or prosecutors in cases requiring identification of suspected hippo teeth (whether or not this assistance led to formal participation as an expert witness).
- Expert testimony in other cases dealing with specimen identification.
- Familiarity with the identification method used in the expert report and/or reliance on established ID guides or methodologies.
- Participation in relevant course-work, seminars, workshops, trainings, etc.

Side Bar—How Courts Address the Reliability of Expert Testimony:

Assuming a reasonable demonstration of the expert’s qualifications, the Code appears to encourage filtering of unconvincing testimony through cross-examination and the submission of rival evidence, as opposed to outright exclusion.

This is consistent with other Anglo-American systems, wherein courts are cautioned not to be overly zealous in screening out “junk science.” In the United States, “the factual basis of an expert opinion goes to the credibility of the testimony, not the admissibility, and it is up to the opposing party to examine the factual basis for the opinion in cross-examination.” *Hartley v. Dillard’s, Inc.*, 310 F.3d 1054, 1061 (8th Cir. 2002). Accordingly, federal courts in the U.S. only exclude expert testimony if it is “so fundamentally unsupported that it can offer no assistance to the [factfinder.]” Id.

In the United Kingdom, the gatekeeping function of courts is even more relaxed. “Legal scholars assessing the standard for review of expert admission agree that the reliability review of expert testimony in England . . . is minimal.” Andrew W. Jurs, *Balancing Legal Process with Scientific Expertise*, 95 *MARQUETTE LAW REVIEW* 1329, 1378 (2012). The Code generally suggests a similar approach. Especially where a jury is not involved—and the risk of the factfinder being blinded by the title of “expert” is accordingly low—outright exclusion should be reserved for extreme cases.

Question 2: What happens if my expert resides in a foreign country? Must the expert appear in Malawi for court proceedings?

The Code authorizes, in certain circumstances, the presentation of a written expert report as evidence without the need for corresponding oral testimony. Given that many qualified experts may reside outside of Malawi and travel expenses are not affordable in most cases, the option of presenting a written report

without oral testimony makes participation by foreign experts more feasible. Even if a local expert is available, a foreign expert can enhance the prosecution effort by complementing local knowledge.

Section 180(3) enumerates two circumstances under which a written expert report is admissible as evidence:

- a. The other parties to the proceeding consent; or
- b. The party offering the report serves on the other parties a copy and notice of intent to enter the report into evidence, and none of the other parties objects to the report within seven days.⁵

If one of the above circumstances is satisfied, then the report is admissible and not subject to exclusion as hearsay.⁶

However, admission of an expert report under Section 180 does not necessarily mean that the expert will not be called to testify in court or otherwise asked to provide additional evidence. First, following admission of the report, the submitting party retains the right to present live testimony from the expert.⁷ Second, if the expert is present in Malawi, the court may summon the expert to testify on its own initiative or in response to a request from the accused.⁸ Finally, if the expert is not in Malawi, the court may order written interrogatories that the expert must answer, with those interrogatories and replies ordinarily constituting supplementary evidence.⁹ However, even then, an expert's failure to appear in court or to respond to court-ordered interrogatories may be excused by the court when the expert is "absent from Malawi" or "unable to attend without unreasonable delay or expense."¹⁰

When analyzing whether it makes sense to attempt to provide an expert report without oral testimony, prosecutors should consider the following advantages and disadvantages in light of the specific case:

Advantages & Disadvantages of Submitting an Expert Report Without Oral Testimony

Advantages	Disadvantages
Avoids the possibility of expert's oral testimony contradicting the report (whether on direct or cross-examination).	Deprives expert of an opportunity to provide more details and to answer questions to resolve any doubts held by the judge and/or jury.
Makes it much easier to secure participation by a foreign expert, as travel is unnecessary.	Due to above, requires even more work to make sure the report is absolutely credible.
Reduces time needed to prepare witness for direct testimony and cross-examination.	May cause some magistrates or judges to assign less weight to the report, even though the law does not suggest this should occur.

⁵ Criminal Procedure and Evidence Code, §180(3).

⁶ Chimangeni v Republic, Crim. App. No. 2 of 2003, MWHC 34 (28 May 2003), available at <https://malawilii.org/mw/judgment/high-court-general-division/2003/34>; see also Republic v. Zobvuta, MWHC 1006, 1994 MLR 317, 321 (14 November 1994) ("[Regarding] the alternative in subsection (3)(b), once the other party has been served with a copy it is the duty of the recipient to notify the serving party of objection to production of the report . . . [and i]f no notice of objection is served by the party objecting, the report may be admitted.").

⁷ Criminal Procedure and Evidence Code, § 180(4)(a).

⁸ Id. at § 180(4)(b)(i).

⁹ Id. at § 180(4)(b)(ii).

¹⁰ Id. at § 180(5).

PRACTICE POINTER

The ability to present written reports without corresponding live testimony makes participation by foreign experts more feasible. Even if the accused requests that the court order oral testimony under Section 180(4)(a), a prosecutor can argue that this is inappropriate because the expert is absent from Malawi.

Note, however, that the court may still issue written interrogatories that the foreign expert should answer. Although Section 180(5) provides that failure to answer interrogatories should not affect the admissibility of a report when the expert is absent from Malawi, the best practice is to provide answers, as this will boost the overall credibility of the witness.

Question 3: What are the key contents of an expert report?

Admission of a report into evidence is only the first step; the report must also be convincing if it is to serve its ultimate purpose of establishing facts and conclusions to support a conviction. In addition to describing the expert's qualifications, it is absolutely critical that the expert describe the process and rationale leading to his or her conclusions. In *Sanjan M. Vachan v. State*, a case involving a man found in possession of eleven pieces of processed ivory, the High Court of Malawi chided the prosecution for the expert's failure to explain his methodology and reasoning for concluding that the specimens were genuine rather than fake ivory.¹¹ After stating his experience in the field, the expert recited his belief that the specimens were genuine ivory, without pausing to explain his process and reasoning in the case at hand.¹² The court responded as follows: "What is expected is for the witness to demonstrate how he arrived at the conclusion that the specimen is or is not ivory. This must be scientifically proved by stating the method used."¹³ The court's point is well-taken. As in math, showing one's work is just as important as arriving at the correct result.

KEY CONTENTS OF AN EXPERT REPORT: A CHECKLIST

- ✓ Description of purpose of expert report: What is the report trying to establish, and why does it matter to the case?
- ✓ Description of the expert's qualifications: Why is this expert suited to answer the key question(s)?
- ✓ Expert's methodology, process, and/or reasoning: What methodology or process did the expert employ? Did the expert make any inferences that require explanation?
- ✓ Expert's conclusion: What is the expert's ultimate conclusion? Example: "The specimens are, in fact, hippo teeth."

¹¹ *Sanjan M. Vachan v. State*, Criminal Appeal Case No. 37 of 2018, High Court of Malawi (July 2019).

¹² Id.

¹³ Id.

PRACTICE POINTER

In many ways, the description of the expert's methodology and reasoning is more important than the conclusions. At a minimum, the expert report should include a description of:

- (1) the methodology;
- (2) the methodology's acceptance within the relevant discipline; and
- (3) steps taken to eliminate sources of error.

WILDLIFE CASE EXAMPLE

In a case involving an expert report offered to prove that a specimen is genuine elephant ivory, the following content could be used:

Methodology Used	Methodology's Acceptance	Measures to Eliminate Errors
Example: Analysis of Schreger angles.	Example: Espinoza & Mann, Identification Guide for Ivory and Ivory Substitutes (1999) (published in cooperation with Traffic, WWF, and the CITES Secretariat).	Examples: chain of custody measures; double-measurement of Schreger angles and double-calculation of the angle average.

Question 4: In what ways might defense counsel challenge my expert and/or her testimony? How can I prepare my expert to respond to those challenges?

In cases where the expert witness testifies in court, competent defense counsel will almost always wish to conduct a vigorous cross-examination of the expert. The Code allows as much.¹⁴ In a wildlife case where the government has produced an expert report analyzing, for instance, the identity or value of a particular specimen, the expert witness should be prepared for challenges on the following fronts:

- the expert's qualifications;
- adherence to the procedures or methods articulated in the report;
- consistency with international best practices; and
- possible sources of error.

In addition to attacks on the merits of the report, experts should be prepared for cross-examination and other evidence designed to impeach the expert's credibility. Section 231 of the Code authorizes impeachment of a witness in three different ways. First, the adverse party can call its own witness to testify, based on personal knowledge, that the target witness is untrustworthy.¹⁵ Second, the adverse party may attempt to impeach the witness's credibility by proof of bribery or other corrupt action.¹⁶ Finally, the adverse party may impeach the witness through inconsistent former statements.¹⁷ In wildlife cases, impeachment of expert witnesses is most likely through this final avenue. For example, defense counsel may attempt to highlight inconsistent statements or positions, whether made in court or not,

relating to methodologies for identifying and valuing specimens. Prosecutors should work with expert witnesses to anticipate such attacks.

PRACTICE POINTER

Before finalizing the written report, prosecutors should subject the expert to a mock cross-examination. This will (1) prepare the expert for cross-examination and (2) expose weaknesses in the report, which can then be cured with additional information prior to submission.

¹⁴ Criminal Procedure and Evidence Code, §§ 180(4)(b)(i), 214

¹⁵ Id. at § 231(a).

¹⁶ Id. at § 231(b).

¹⁷ Id. at § 231(c).

EXPERT TESTIMONY – MODEL EXPERT REPORT

Final report of: [Author name]

Dated: [Date of Report submission]

Specialist field: Wildlife Specimen Identification and Wildlife Crimes Investigation

Requested by: The State

On behalf of: The Director of National Parks and Wildlife.

On the instructions of: The officer In-Charge, Lilongwe Police Station

Prepared for: The Lilongwe Magistrate Court

In the matter of:[case name and number]

Subject matter: Identification of 20 items suspected to be specimens of protected wildlife

Personal Details of Expert Witness

1. I am[author name] from [village/TA/district].
2. I work for the Department of National Parks and Wildlife in the Ministry of Natural Resources, Energy and Mining.

Qualifications and Experience of Expert Witness

3. I work as a parks and wildlife officer responsible for wildlife specimen identification and wildlife crimes investigations. My specialist field is wildlife specimen identification and wildlife crimes investigations. I have attended several courses in this field and I hold the following academic qualifications:
 - (a) A degree in
 - (b) A diploma in
 - (c) A certificate in
 - (d) (give a short summary of the most important qualifications relevant to the case).
4. I have 20 years of experience in handling wildlife specimens whilst serving in the Department of National Parks and Wildlife. During my 20 years of experience I have executed the following roles and responsibilities, among others:
 - (a)
 - (b)
 - (c)
5. In addition to training and experience related to specimen identification, I have significant training and experience in valuing specimens in light of prevailing black-market rates. This training and experience includes the following:
 - (a)
 - (b).....
 - (c).....

[NOTE: If the identification expert is unable to make a convincing showing of expertise regarding valuation, the prosecution team should seek to obtain a separate valuation expert, if possible.]

The Present Case

6. The accused has been charged with [state charge or charges]. Specifically, the accused is alleged to have [briefly describe particulars of charges].
7. I have been asked by the officer in Charge at Lilongwe police station to examine 20 items in a [bag/sack/container]. The items are suspected to be wildlife specimens. After the examination I have been asked to state what the items are.
8. The purpose of this report is to state the findings of my examination of the items presented to me by the officer in charge of Lilongwe Police Station and also to state my professional opinion regarding these items.

Method of Examination

9. The examination of the 20 items was done by me personally using the [...] method.
10. The [...] method consists of [insert number of] steps. First, [describe first step in general/lay terms]. Second, [describe second step in general/lay terms]. [Repeat for other steps as necessary.]
11. The [...] method is an internationally recognized method for examining such items. The [...] method is used to identify wildlife specimens by authorities in jurisdictions such as [cite two or three cases in leading/persuasive jurisdictions, such as the U.K. and U.S., if possible]. In addition, the [...] method has been employed in scholarly research [cite two or three relevant publications in academic journals, if possible] and embraced by international organizations and leading non-governmental organizations [cite two or three examples where international organizations (e.g., INTERPOL, UNODC, CITES) and/or leading NGOs (e.g., TRAFFIC) have used or recommended use of the method in question)]. [NOTE: For all references in this section, be sure to include enough information to allow court personnel to find the relevant publication using a basic internet search.]
12. In Malawi, the [...] method was used to support convictions in [identify other Malawi criminal cases in which the method was successfully used, if possible].

Findings and Conclusions

13. Using the above method, I arrived at the following results:
 - (a)
 - (b)
 - (c)
14. When put on a scale, the items weigh a total of [insert weight – e.g., 10Kgs].
15. From the results of my examination above mentioned and due to my expertise, experience and familiarity in dealing with these kind of items I can confirm that these items are [raw ivory, Hippo teeth, etc.....]
16. The [name specimen – e.g., ivory, hippo teeth, etc.] is from [state the number] of [state the species/relevant taxa – e.g., African Elephants, hippopotamus].
17. That [ivory, hippo teeth, etc.] is a specimen of listed species under the National Parks and Wildlife (protected, endangered and Listed species) (Declaration) order 2017 and Appendix 1 of CITES and its possession and use is controlled by law.

Investigation and Opinion of the Value of the Specimens

18. That I have investigated the value of the specimens using the following materials:
- (a)
 - (b)
 - (c)
19. These materials show that the current prevailing black-market rate is USD (equivalent to MK.....).

Summary of Report

20. This report shows that in my professional opinion the 20 items presented to me for examination are pieces of raw (unprocessed) ivory from [indicate species] with a weight of 50 Kilograms and valued at USD [indicate value in dollars] equivalent of MK [indicate value in Malawi Kwachas].

Statement of Compliance

I understand my duty as an expert witness to the court to provide independent assistance by way of objective unbiased opinion in relation to matters within my expertise. I have complied with that duty and will continue to comply with it. I will inform all parties and where appropriate the court in the event that my opinion changes on any material issues. I further understand that my duty to the court overrides any obligation to the party from whom I received instructions.

Declaration of Truth

This my statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Date.....

Signed: _____

[Name of author]

For and on behalf of the Director of National Parks and Wildlife.

APPENDIX

[Attach expert's CV and copies of any diplomas, awards, training certificates, etc., if available]

STATE'S SENTENCE SUBMISSIONS – GUIDELINES

1 INTRODUCTION & ISSUES FOR DETERMINATION

Context/Background

Whenever a person pleads guilty or is found guilty of an offence and convicted, the role of the court is to decide what sentence should be imposed on the offender.

Judges and magistrates have a fairly wide discretion as to the sentence they select in each case although they are subject to certain restrictions.

Sentence submissions become relevant in a criminal trial only when an accused person has been found guilty and convicted with a particular offence, whether charged or the court having invoked any provision to convict on an alternative verdict.

Drafting Advice

This section of the sentence submission should include a brief statement of the charge(s), as well as a brief summary of the trial and the conviction obtained. This can be quite brief, as there is an opportunity to provide further details in the next section (“Case History and Summary of Facts”).

This first section should also clearly state what the issue for determination is—i.e., setting the sentence following conviction.

Finally, this section should end with a description of the precise sentence sought by the State, along with a reference to the law that authorizes such sentence. If there are special requests (e.g., that sentences on multiple charges run consecutively vs. concurrently, restitution, or forfeiture of items), these should also be included in this first section.

In fixing the sentence, judges and magistrates should consider the underlying purposes of criminal penalties, including deterrence, incapacitation, retribution, and rehabilitation. To the extent possible, one or more of these purposes should be mentioned, however briefly, in the introduction as support for the sentence sought. For instance, if the crime was particularly serious and/or if there is a pattern of similar crimes in the community, the introduction could include a statement such as the following: “In light of the increasing number of cases of ivory trafficking in Malawi and the defendant’s status as a repeat offender, it is clear that a high sentence is needed to secure deterrence — both for the defendant and for other traffickers operating in Malawi.” The full argument need not be developed in the introduction, however. This is simply a space to establish a basic theme.

Example of – Introduction and issues for determination –

The convict [name of the convict] was convicted on [date] on the charge of hunting in a protected area without a valid hunting licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act. The particulars are that [cite particulars of the offence as described on the charge sheet]. This offence authorizes up to four years’ imprisonment along with a fine of 2 million K. The main issue at this stage is to determine the appropriate sentence for the convict in the circumstances. In this case the State proposes a sentence of two years’ imprisonment and a fine of 500,000K.”

2 CASE HISTORY AND SUMMARY OF RELEVANT FACTS

Drafting Advice

This section should include all the key facts and evidence that the prosecutor will use to support the requested sentence.

- First, provide the key information regarding the charge(s) (including statement of offence(s) and particulars of offence(s)), the procedural history of the case, and the conviction following trial.
- Second, whenever possible, include the judge's rationale for the conviction, as this can also be used to support the sentence requested.
- Third, summarize the core evidence and facts from the trial. In complex cases, it may be advisable to reproduce the evidence in greater detail. Regardless, the prosecutor should provide at least a basic summary of the relevant evidence and facts established at trial (i.e., the core evidence and facts necessary to summarize the case and explain why the defendant was convicted).
- Finally, in addition to the key evidence and facts associated with the conviction, this section should include ancillary facts and evidence to the extent relevant to the requested sentence. Such facts and evidence may include, among other items, (a) the defendant's criminal history, (b) evidence of remorse or lack thereof, (c) the use of force in committing the offence, (d) the prevalence or frequency of the offence in the community, (e) premeditation, and (f) the degree of participation by the defendant (e.g., acting as a leader vs. a minor participant).

One way to ensure that you are including enough information is to ask the following question: "Have I included all evidence and facts that justify the requested sentence?"

Any facts and evidence that you will use to support your request should be set forth in this section. In other words, this section serves as the prosecutor's "basket of facts," upon which he or she may draw in making arguments and advocating for a particular sentence in the "ANALYSIS AND ARGUMENT" section, below.

Example of - Case history and summary of relevant facts -

"The accused in this case was charged with the offence of hunting in a protected area without a valid hunting licence contrary to section 35 (a) as read with section 108 of the National Parks and Wildlife Act, Cap 66:07 of the Laws of Malawi.

The particulars of offence alleged that [name of the convict], aged 22, on or about the [date of arrest] at [location of arrest] in the District of [district of arrest] in the Republic of Malawi, was found hunting in [name the protected area], a protected area without a valid hunting licence.

He pleaded not guilty and the prosecution paraded six witnesses and after full trial the court found him/her guilty and accordingly convicted the accused [or if accused pleaded guilty then make necessary narration to that effect]. Two witnesses testified that they saw the accused walking into the protected area with a rifle. Two other witnesses testified to seeing the accused later that day walking toward his home with a rifle and a dead domestic animal (i.e., not a game species, protected species, endangered species, or listed species). One of those witnesses further testified to having called the police to report an apparent act of unlawful hunting. Finally, two police officers testified to investigating the incident in response to the phone call. They testified to finding the accused in his home cleaning a domestic animal that appeared to have died from a gunshot wound. Past court records established that the defendant had previously been convicted of the same offence in a different protected area. Based on the totality of the evidence, the court found the defendant guilty as charged, further concluding that the defendant 'knew he was hunting illegally in a protected area.'"

This is simply a brief example. As submitted, the document should contain additional details.

3 THE LAW ON SENTENCING

Drafting Advice

In this section, the prosecutor sets forth the basic law that the court should apply when passing its sentence.

Prosecutors should not use this section to analyze the evidence and case facts in relation to the law on sentencing. Although important, such analysis and argumentation belongs in the following section "ANALYSIS AND ARGUMENT".

- First, it is necessary for the prosecutor to specifically **mention the prescribed maximum penalty and the section** of the National Parks and Wildlife Act (or other Act) under which the convict was charged.
- Second, the prosecutor should briefly describe the **fundamental purposes and goals of criminal sentencing**. These include retribution, deterrence, incapacitation (protection of society), rehabilitation or reformation of the offender, restitution or restoration, and, in wildlife cases, conservation of wildlife and ecosystems. If one or more of these purposes is particularly important to the requested sentence, that purpose or purposes should be described in greater detail. Helpful case citations and other information to consider presenting to the court include the following:
 - Retribution: *Republic v. Maria Akimu*, Revision Case No. 9 of 2003.
 - Deterrence: *Republic v. Chilemba Elias Conf. Case*, No. 354 of 1999; *Hope Kapalamula and Others v. Republic*, Crim. Appeal No. 187 of 2016; *Republic v. John Sakala and Others, Conf. Case No. 2451 of 2016*.
 - Incapacitation: *Republic v. Brown and Others* [1995] 1 MLR 212.
 - Restitution or Restoration: See Sentencing Guidelines for Wildlife Crimes in Malawi Courts (2017) for a helpful description and ideas for calculating the proper amount of a restitution order.
 - Conservation of Wildlife and Ecosystems: *Republic v. Maria Akimu*, Revision Case No. 9 of 2003.
- Third, the prosecutor should remind the court that the Criminal Procedure and Evidence Code (CP & EC) takes a broad view to evidence relevant in sentencing. **Section 260 (1) of the CP & EC** provides that:

"The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed."

Evidence that the court may receive under section 260 (1) may, in addition to the evidence of the accused or the prosecution, include the evidence by or on behalf of the victim of the offence and any relevant reports to enable the court to assess the gravity of the offence. As such, sentence submissions may be made:
 - by or on behalf of the convict;
 - by the prosecutor; or
 - by or on behalf of any victim of the offence under consideration.
- Fourth, the prosecutor should remind the court of the basic rule that, for a court to arrive at a just sentence, there must exist circumstances supported by evidence that indeed the convict deserves such a particular sentence and not otherwise.
- Fifth, the prosecutor should explain the variety of ancillary evidence relevant to sentencing, including:
 - Previous convictions, where the previous conviction (a) preceded the present conviction and (b) was for an offence arguably of the same or similar nature

- The use of force in committing the offence
- The prevalence or frequency of the offence in the community, enhancing the need for general deterrence
- Lack of remorse on the part of the convict
- Premeditation. See **R v Makanjira and Others 1997 (2) MLR 150** (in this case, involving a robbery which was well planned by a gang of about 20 people, the High Court enhanced the sentence from 5 years to 9 years)
- Abuse of authority. See **R v Chinthiti (No. 2) 1997 (1) MLR 70**
- The convict’s degree of participation in the commission of a particular offence. For example, participating as the mastermind and leader of a trafficking scheme should be treated differently than participating as a minor player in that scheme.

The list does not end here; suffice it to say that it all depends on the circumstances of the particular case under consideration. Prosecutors therefore need to be very skillful in isolating these aggravating circumstances to assist the court to arrive at a just sentence.

- Finally, the prosecutor should cite any sentencing decisions in similar cases that support the requested sentence. This can be accomplished by writing a simple list:

See also the following decided cases:

- (1)
- (2).....
- (3).....

Note on Sentencing Under the NPWA

In cases involving offences under the National Parks and Wildlife Act, prosecutors should discuss the 2017 Malawi Judiciary sentencing guidelines entitled “Sentencing Guidelines for Wildlife Crimes in Malawi Courts.” The Sentencing Guidelines provide a step-by-step process for courts engaged in sentencing. Prosecutors should respectfully remind courts of their obligation to follow this process, the six stages of which are as follows:

- **STAGE ONE:** Determine which of the 6 Punishment Provisions is applicable to the Offence under consideration. Ensure the correct offence has been listed according to the species type i.e. ‘listed’ species are the most highly protected (this includes elephants, rhinos, lions, leopards, pangolins and several other species as referred to in the Species Schedule with the Act).
- **STAGE TWO:** Consider the Minimum and Maximum Penalties to appreciate the seriousness of the crime in the eyes of the law.
- **STAGE THREE:** Recognise the proposed sentencing Starting Point for that category of offence
- **STAGE FOUR:** Factor into the Starting Point any Mitigating or Aggravating Features of the offence/offender/society/victim.
- **STAGE FIVE:** Determine (tentative) Sentence; Compare result with proposed Starting Point. If necessary, revisit Stage Four again.
- **STAGE SIX:** Prepare a Reasoned Sentencing Order (especially) explaining any deviation (up or down) from the Starting Point.

The following table, included in the Sentencing Guidelines, illustrates how these stages function:

APPENDIX 1: WILDLIFE CRIMES SENTENCING TEMPLATE

STAGE ONE											
Determine which of the 6 Punishment Provisions (Sec 108 to Sec 111) below is applicable to the Offence under consideration											
Sec.108 Offences		Sec.109 Offences		Sec.110 Offences		Sec.110A Offences		Sec.110B Offences		Sec.111a Offences	
All Other Offences (about 54 in Total) (See Appendix 3)		Sec. 109 (a)		Sec. 110 (a)		Sec. 110A (a)		Sec. 110B (a)		Sec. 98 (a)	
		Sec. 109 (b)		Sec. 110 (b)		Sec. 110A (b)		Sec. 110B (b)		Sec. 98 (b)	
				Sec. 33 (1)		Sec. 110B (c)		Sec. 99			
				Sec. 35 (c)		Sec. 38					
STAGE TWO											
Consider the Minimum and Maximum Penalties to appreciate the seriousness of the crime in the eyes of the law											
Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
Fine ≤K2m	4yrs IHL + K2m fine	Fine ≤K2m	4yrs IHL + K2m fine	Fine ≤K5m	10yrs. IHL + K5m fine	Fine ≤K15m	30 yrs IHL and K15m fine	No option of a fine	30 yrs IHL	No option of a fine	30 yrs IHL
STAGE THREE											
Recognize the proposed sentencing starting Point for that category of offence											
K50,000		K50,000 fine		K500,000		K2m fine and 3 yrs IHL		6 years IHL		6 years IHL	
1 year IHL		1 year IHL		15 months IHL		Note that the fine should not be less than the value of the seized item					
STAGE FOUR											
Factor into the Starting Point any Mitigating or Aggravating Features of the offence/offender/society/victim											
Mitiga-tion	Aggrava-tion	Mitiga-tion	Aggrava-tion	Mitiga-tion	Aggrava-tion	Mitiga-tion	Aggrava-tion	Mitiga-tion	Aggrava-tion	Mitiga-tion	Aggrava-tion
Appen-dix 2 (a)	Appen-dix 2 (a)	Appen-dix 2 (b)	Appen-dix 2 (b)	Appen-dix 2 (c)	Appen-dix 2 (c)	Appen-dix 2 (d)	Appen-dix 2 (d)	Appen-dix 2 (e)	Appen-dix 2 (e)	Appen-dix 2 (f)	Appen-dix 2 (f)
STAGE FIVE											
Determine (tentative) Sentence; Compare result with proposed Starting Point. If necessary Stage Four again.											
STAGE SIX											
Prepare a Reasoned Sentencing Order (especially) explaining any deviation (up or down) from the Starting Point.											

In addition, the Sentencing Guidelines contain a tailored list of factors—including “responsibility and harmfulness” factors, aggravating factors, and mitigating factors—for wildlife offences. A sample of these factors (those corresponding to offences under section 108) is as follows:

Responsibility and Harmfulness	Aggravating Factors	Mitigating Factors
<ul style="list-style-type: none"> • Type of species involved • Quantity of the species • Tourism or other economic benefit of species to Malawi • Transnational nature of offence • Group action and level of participation of the offender • Level of concealment of the species • Possession is as a result of other offences • Crime committed for commercial purposes 	<ul style="list-style-type: none"> • Group action • Injury to persons or property • Scene of Crime • Inconvenience to the public • The number of protected species, endangered species or listed species affected by the offender’s conduct • The injury or harm caused by the offender • Premeditation • High prevalence of the offence in the community in which it was committed 	<ul style="list-style-type: none"> • First offender • Pleaded guilty (evidence of remorse) • Age • Time already spent in custody • Cooperation with law enforcers • Offender was involved through coercion or intimidation • No actual protected species was affected by offender’s conduct

Additional factors can be found on pages 18-23 of the Sentencing Guidelines. Prosecutors should highlight to the court the existence of these factors and specify any that pertain to the case at hand.

Note on Expert Testimony, Prior Convictions, and Adjournments to Gather Additional Evidence

Magistrates may sometimes lack the necessary information with regard to a case under consideration. It is the duty of the prosecutor to bring such information to the attention of the court through the sentencing submission.

For example, the prosecutor may invite experts to inform the court of the impact that the offence under consideration has to the Nation or Wildlife.

The prosecutor should also let the court know whether the convict is a first offender or a repeat offender. **Section 181(1)** of the CP & EC provides that:

“A previous conviction may be proved in any legal proceeding against any person by producing a record or extract of such conviction and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted.”

Subsection 4 to the above section provides that the mode of proving a previous conviction authorized by this section shall be in addition to and not in exclusion of any other authorized mode of proving such a conviction.

As such, the court may receive such proofs in relation to a particular convict while taking into account any other modes of doing the same as authorized by law.

Relatedly, an adjournment may be sought for purposes of allowing the prosecutor to bring sufficient evidence for the court to make an informed decision as to the type of sentence a particular convict deserves. Prosecutors must always remember to ask for the same where they feel it desirable.

For their part, presiding magistrates must be prepared to grant the adjournment if justice so requires.

The Prosecutor should remember to discuss only the law that is relevant to a case under consideration.

Example of - Law on sentencing -

“Because the defendant was convicted for a violation of the NPWA, the Court should follow the six-stage analysis set forth in the ‘Sentencing Guidelines for Wildlife Crimes in Malawi Courts’ (2017). In the present case, the defendant was convicted of hunting in a protected area without a valid hunting licence in violation of section 35(a) of the NPWA.

The first stage of the Sentencing Guidelines calls for determination of the relevant punishment provision corresponding to the offense under consideration. Here, the punishment provision is Section 108.

The second stage of the Sentencing Guidelines calls for the Court to consider the minimum and maximum penalties to appreciate the seriousness of the crime in the eyes of the law. Here, the minimum penalty under Section 108 is a fine of up to 2 million K; the maximum penalty is four years’ imprisonment along with a fine of 2 million K.

The third stage of the Sentencing Guidelines asks the Court to recognize the proposed sentencing starting point for the offense in question. In the case of a violation subject to punishment under Section 108, the proposed starting point is one year of incarceration and a fine of 50,000K.

Next, the fourth stage calls for the Court to consider any aggravating or mitigating factors. In the present case, there is one mitigating factor and several aggravating factors. While the defendant is young (mitigating factor), he’s a repeat offender – a previous conviction of similar nature occurred two years ago - (an aggravating factor), the evidence establishes that the crime was premeditated (an aggravating factor) and hunting in violation of section 35(a) is highly prevalent in the community in which the defendant committed the crime (an aggravating factor).

In the fifth stage, the Court is to determine a tentative sentence based upon the first four factors. In the sixth stage, the Court fixes the final sentence, setting forth its reasoning and being sure to explain any adjustment upward or downward from the starting point.

Because the aggravating factors outweigh the mitigating factor in this case, the State recommends that the Court adjust the sentence upwards from the proposed starting point. A sentence above the starting point (50,000K and one-year imprisonment) is clearly warranted in light of the overwhelming evidence of careful planning and premeditation. The evidence established that the defendant hunted at night over the course of several nights, using the cover of darkness in an attempt to avoid detection. Moreover, the State’s witnesses established that unlicensed hunting in this particular protected area is a growing problem; general deterrence is needed to send a message to the community. Although the defendant is a young offender, the aggravating factors overwhelm this mitigating circumstance.

Two additional points bear emphasis: (1) the importance of achieving deterrence, and (2) the admissibility of supplementary evidence for purposes of sentencing.

Malawi’s case law recognizes that deterrence is a particularly important goal. As explained in Republic v. Chilemba Elias Conf. Case No. 354 of 1999, ‘Courts should, when passing sentences be guided by public interest. The object is not only to punish the offender but also to be to hope to prevent the crime. Punishment should not be so negligible as to encourage would be offenders who may wish to gain from criminal activities.’ Because the State has introduced unrebutted evidence demonstrating that unlawful hunting is a growing concern in the geographical area in question, the need for general deterrence is especially clear and should guide the Court’s sentencing decision in this case.

As to the State’s supplementary evidence for sentencing—including evidence of a prior conviction and new witness testimony regarding the growing phenomenon of unlawful hunting in the affected area—the State notes that the CP & EC supports admission and consideration of this evidence at the sentencing stage. Specifically, as is relevant to the new testimony regarding the trend of unlawful hunting, Section 260 (1) of the CP & EC provides that: ‘The court may, before passing sentence, receive such evidence as it thinks fit in order to inform itself as to the sentence proper to be passed.’ As for the evidence of a prior conviction, this is contemplated in Section 181(1) of the CP & EC, which provides as follows: ‘A previous conviction may be proved in any legal proceeding against any person by producing a record or extract of such conviction and by giving proof of the identity of the person against whom the conviction is sought to be proved with the person appearing in the record or extract of conviction to have been convicted.’ The State has complied with these requirements.”

NOTE: This is simply a brief example. As submitted, the analysis should contain a fuller explanation, especially of the aggravating and mitigating factors and their impact on the appropriate sentence.

4 ANALYSIS AND ARGUMENT

Drafting Advice

After setting forth the relevant evidence and the governing law, it becomes incumbent on the prosecutor to marry such evidence with the law.

In doing so, the prosecutor shall embark on making pertinent observations that will persuade the court to mete out an appropriate sentence.

It is the duty of the prosecutor to provide the court with the necessary evidence, information, and reasoning to justify imposition of any penalty against the convict.

If the “Case History and Summary of Relevant Facts” and “Law on Sentencing” sections are well crafted, writing this section should be straightforward. The prosecutor has already identified the relevant law and facts; all that remains is to apply the sentencing law to the facts in a manner that supports the requested sentence.

Example of - *Analysis and argument* -

“A sentence of two years’ imprisonment and a fine of 500,000K is appropriate in the present case involving illegal hunting of domestic animal in a protected area because the level of planning of the committed offence and other aggravating circumstances, demonstrate significant culpability and the need for deterrence. Under section 108 of the National Parks and Wildlife Act, the defendant’s violation of section 35 (a) yields a minimum penalty of a fine up to 2 million K and a maximum penalty of four years’ imprisonment along with a fine of 2 million K. According to the Sentencing Guidelines, the sentencing Starting Point for this crime is one year of incarceration and a fine of 50,000K. The court should adjust the sentence upward of the starting point in light of the following aggravating factors:

a) court records show offender’s previous conviction of similar nature

b) offence premeditated

c) offence highly prevalent in the locality where the crime was committed

After accounting for these aggravating factors, the State proposes a sentence of two years’ imprisonment and a fine of 500,000K.”

The above example is very basic. In an actual submission, the prosecutor would develop the reasoning in greater detail, incorporating all relevant law and facts as set forth in the preceding sections.

5 CONCLUSION & SUBMISSION

Drafting Advice

After analyzing the evidence and the applicable law, the prosecutor will make a conclusion by submitting that, under the facts and law, the court should impose the requested sentence. This section should be brief.

It is always prudent for the prosecutor to repeat the precise sentence he/she thinks would be appropriate in the circumstances of the particular case.

PROSECUTION FILE CHECKLIST

The file to be ready for prosecution

To ensure an effective prosecution of wildlife and forestry court cases, the prosecutor will make sure that the following documents are available on the docket prior start of trial.

Court Case Number:

Court Case ID:.....

Court:.....

Magistrate/Judge:

Date of arrest:

Check that the following documents are available into the docket:

- (i) Facts for court on investigations Diary
- (ii) Investigator’s report
- (iii) Witness statements for all potential witnesses
- (iv) Caution statements for all accused persons
- (v) Evidence of arrest for all accused persons
- (vi) Verification/Expert report (for Wildlife specimen in question)
- (vii) Exhibits (i.e money, trophies, documents, vehicles, firearms etc)
- (viii) A Properly drafted charge sheet
- (ix) The pre-trial briefing notes from prosecutor

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This document was funded by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State.