

[Chap6301]CHAPTER 63:01

FORESTRY

ARRANGEMENT OF SECTIONS

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11 of 1997

G.N. 3/1998

An Act to provide for participatory forestry, forest management, forestry research, forestry education, forest industries, protection and rehabilitation of environmentally fragile areas and international cooperation in forestry and for matters incidental thereto or connected therewith

[22ND DECEMBER 1997]

PART I

PRELIMINARY

[Ch6301s1]1. Short title

This Act may be cited as the Forestry Act.

[Ch6301s2]2. Interpretation

In this Act, unless the context otherwise requires—

“Minister” means the Minister for the time being responsible for forestry matters;

“Board” means the Forest Management Board establishment under section 15;

“customary land” has the meaning assigned thereto in the Land Act; Cap. 57:01

“forest” means an area of land proclaimed to be a forest under this Act or unproclaimed land with trees on it;

“forest management agreement” means an agreement made under section 31;

“forest plantation agreement” means an agreement made under section 36 for establishment and management of forest plantations;

“forest produce” includes trees, timber, firewood, branch wood, poles, bamboos, chips, sawdust, plants, grass, reeds, peat, thatch, bedding, creepers, leaves, moss, fruits, seed, galls, slabs, roots, bark, rubber, gum, resin, sap, flowers, fungi, honey, wax, earth, water, soil, stones, vertebrates, invertebrates, wild animals, hides, horns, bones, ivory, meat and such other produce as the Minister may, by notice published in the Gazette, declare to be forest produce;

“Fund” means the Forest Development and Management Fund established under section 55;

“highway authority” has the meaning assigned thereto in the Public Roads Act; Cap. 69:01

“licensing officer” means, in relation to any licence under this Act, an officer not below the rank of Principal Forestry Officer who may be authorized to issue licences;

“livestock” includes cattle, horses, mules, donkeys, pigs, sheep and goats;

“management authority” in relation to a village forest area, means a person designated as the management authority pursuant to the agreement establishing the village forest area;

“National Forest Plan” means a plan prepared under section 5;

“officer” means the Director of Forestry and any officer appointed pursuant to section 4;

“private land” has the meaning assigned thereto in the Land Act; Cap. 57:01

“protected forest area” means an area declared as such under section 26;

“public land” has the meaning assigned thereto in the Land Act; Cap. 57:01

“river” includes all natural or artificial water courses in which water ordinarily flows or remains either throughout the year or during particular seasons;

“timber” means any tree or part of a tree which has fallen or has been felled and any part of a tree which has been cut and all wood whether sawn, split, hewn, processed or otherwise fashioned;

“tree” means a woody perennial plant having a single well defined stem and a more or less defined crown and includes palm, shrubs, bush, climber, seedling, sapling and reshoots of all ages and of all kinds and any part thereof;

“village forest area” means an area of customary land established as such by an agreement under section 30;

“village natural resources management committee” means a committee elected by stakeholders of the village forest areas.

[Ch6301s3]3. Purposes of this Act

The purposes of this Act are—

- (a) to identify and manage areas of permanent forest cover as protection or production forest in order to maintain environmental stability; to prevent resource degradation and to increase social and economic benefits;
- (b) to augment, protect and manage trees and forest on customary land in order to meet basic fuelwood and forest produce needs of local communities and for the conservation of soil and water;
- (c) to promote community involvement in the conservation of trees and forests in forest reserves and protected forest areas in accordance with the provisions of this Act;
- (d) to empower village natural resources management committees to source financial and technical assistance from the private sector, Non-Governmental Organizations and other organizations;
- (e) to promote sustainable utilization of timber, fuelwood and other forest produce;
- (f) to promote optimal land use practices through agroforestry in smallholder farming systems;
- (g) to upgrade the capability of forestry institutions in the implementation of their resource management responsibilities and in development of human resources in forestry;
- (h) to control trafficking in wood and other forestry produce including exportation and importation;
- (i) to protect fragile areas such as steep slopes, river banks, water catchment and to conserve and enhance biodiversity;
- (j) to provide guidelines in planning and implementation of forestry research and forestry education;
- (k) to establish a forestry administration; and
- (l) to promote bilateral, regional and international cooperation in forest augmentation and conservation.

PART II

ADMINISTRATION

[Ch6301s4]4. Director of Forestry and other officers

There shall be appointed in the public service an officer to be designated as the Director of Forestry and other officers subordinate to him, who shall be responsible for the administration of this Act subject to any general and specific directions of the Minister.

[Ch6301s5]5. Duties of the Director of Forestry

The Director of Forestry shall be responsible for—

- (a) planning, promoting, conducting and assisting in the activities required to maintain, restore and develop the forest cover necessary for soil and water conservation, maintenance of biological diversity and the supply of forest produce;
- (b) conducting and maintaining inventories of the forest resources and preparing both national forestry plans and forestry management plans;
- (c) conducting and co-ordinating research into the growth, management, protection and sustainable utilization of forest resources;
- (d) promoting participatory forestry;
- (e) facilitating the formation of village natural resources management committees and the establishment of rules of village forest areas;
- (f) undertaking training programmes for subordinate, technical and professional staff in the Department of Forestry to the highest levels possible;
- (g) promoting proper harvesting systems, transportation, marketing and sustainable utilization of forest produce;
- (h) encouraging and promoting proper co-ordination of forestry related activities carried out by other organizations;
- (i) promoting forest recreation and tourism in forest areas;
- (j) exercising the control and the management of forest reserves and protected forest areas in accordance with the provisions of this Act;
- (k) promoting the empowerment of local communities in the augmentation, control and management of customary land trees and forests in accordance with the provisions of this Act;
- (l) carrying out silvicultural operations or other forest work including operations to prevent pests and diseases, construction of buildings, water works, and roads, erection of power lines, telephone lines and radio masts and any other activities that enhance forest development in any part of a forest reserve or forest plantation;
- (m) preparing and updating National Forestry Plans in accordance with the National Forestry Policy;
- (n) co-ordinating forestry development and implementing the Forestry Programme of Action in the Southern Africa Development Community region.

[Ch6301s6]6. Inspection by an officer

Pursuant to the provisions of this Act, and officer may—

(a) demand the production by any person of a licence or other authority for any activity committed by such persons for which such licence or other authority is required by or under this Act;

(b) without a warrant—

(i) stop and inspect any carrier or vehicle which the officer reasonably suspects is carrying any forest produce which has been obtained in contravention of this Act or for which a transportation document is required under this Act;

(ii) enter any premises in a forest reserve, any land or premises in which any activity licensed under this Act is conducted, or any village forest area or protected forest area and inspect such premises or land;

(iii) enter upon any land building, tent, carriages, motor vehicle, trailer, aircraft, boat or locomotive for ensuring that the provisions of this Act are being complied with, or for the purpose of detecting any offence against this Act; and

(iv) enter any land or premises and inspect silvicultural, forest harvesting and forest produce processing activities and wherever necessary provide advice on proper methods for carrying out such activities.

[Ch6301s7]7. Barriers across roads

Any officer may, after consultation with the highway authority, temporarily place a barrier approved by the highway authority across any road in a manner consistent with such road safety standards and specifications as the highway authority shall specify for the purpose of examining or searching any motor vehicle or questioning any person in connexion with the provisions of this Act.

[Ch6301s8]8. Search

Wherever an officer has reason to believe that any person to have committed an offence under this Act, the officer may search the person or property of such person or property in such person's possession or control.

[Ch6301s9]9. Seizure of forest produce and article

(1) Any officer or police officer may seize and detain—

(a) any forest produce which the officer or police officer reasonably suspects has been obtained or removed in contravention of this Act;

(b) any article which the officer or police officer reasonably suspects has been used in committing an offence under this Act.

(2) Any officer or police officer who seizes and detains any forest produce or article under subsection (1) shall issue a seizure certificate.

(3) Any village natural resources management committee may seize and detain any forest produce or article which the village natural resources management committee reasonably suspects has been obtained or removed from the village forest area in contravention of rules made by such village natural resources management committee.

[Ch6301s10]10. Custody of seized forest produce and article

Any forest produce or article seized under section 9 shall be kept safely in the custody of an officer or the village natural resources management committee.

[Ch6301s11]11. Disposal of seized forest produce and article

(1) Any forest produce or article in the custody of an officer or the village natural resources management committee under section 10 shall be retained until the case in connexion with which the forest produce or article was seized has been tried and concluded or a decision not to prosecute has been made:

Provided that—

(a) where any person has been tried and found guilty or where a person fails to claim the seized forest produce or article after being acquitted, the forest produce or article shall be disposed of at the discretion of the Director of Forestry;

(b) where a decision has been made not to prosecute, the seized forest produce or article may be returned to the owner;

(c) where any seized forest produce or article is perishable, the Director of Forestry may order the forest produce or article to be sold or disposed of as he sees fit.

(2) Any forest produce or article in the custody of a village natural resources management committee in accordance of section 9 (3) shall be retained until the offence in connexion with which it was seized has been tried and concluded or a decision not to prosecute has been made:

Provided that—

(a) where any person has been tried and found guilty or where a person fails to claim after being acquitted the forest produce or article shall be disposed of at the discretion of the village natural resources management committee according to its rules;

(b) where a decision has been made not to prosecute, the seized forest produce or article may be returned to the owner;

(c) where any seized forest produce or article is perishable, the village natural resources management committee may order the forest produce or article to be sold or disposed of in accordance with its rules.

[Ch6301s12]12. Money from the sale of forest produce or articles to be paid into the Fund

Wherever the disposal of government seized forest produce or articles is by sale, all monies realized shall be payable into the Fund established under section 55.

[Ch6301s13]13. Arrest of a person for committing offence

(1) Where any person is found committing or is reasonably suspected of having or of being about to commit an offence under this Act, any officer may, without warrant, arrest such person.

(2) Any person arrested pursuant to subsection (1) shall be charged with an appropriate offence before a court of law.

[Ch6301s14]14. Prosecution by officers

The Director of Public Prosecutions may in writing nominate, by rank, any officer or class of officers of the Department of Forestry to undertake and prosecute criminal proceedings in respect of any offence committed under this Act.

PART III

FORESTRY MANAGEMENT BOARD

[Ch6301s15]15. Establishment of the Board

There is hereby established a Board to be known as the Forestry Management Board.

[Ch6301s16]16. Composition of the Board

(1) The Board shall consist of—

(a) the following ex officio members—

- (i) the Secretary for Natural Resources or his designated representative;
- (ii) the Secretary for Agriculture and Livestock Development or his designated representative;
- (iii) the Secretary for Lands and Valuation or his designated representative;
- (iv) the Secretary for Local Government and Rural Development or his designated representative;

(v) the Principal Secretary responsible for District Administration in the Office of the President and Cabinet or his designated representative;

(vi) the Secretary for Energy and Mining or his designated representative;

(vii) the Secretary for Works and Supplies or his designated representative;

(viii) the Secretary for Research and Environmental Affairs or his designated representative;

(ix) the General Manager of National Herbarium and Botanic Gardens or his designated representative;

(x) the General Manager of the Electricity Supply Commission of Malawi or his designated representative;

(xi) the Director of Forestry;

(xii) the Director of National Parks and Wildlife;

(xiii) the Director of Fisheries;

(b) and the following members who shall be appointed by the Minister—

(i) one member representing the University of Malawi;

(ii) not less than three and not more than five members representing the general public; and

(iii) a representative of the Timber Association of Malawi.

(2) The Minister shall appoint one of the members to be Chairman of the Board.

(3) A member of the Board appointed under subsection (1) (b), (i), (ii) and (iii) shall hold office for a period of two years unless his appointment be sooner terminated and shall be eligible for re-appointment.

(4) The membership of the Board as first and subsequently appointed and every change in the membership to the Board shall be published in the Gazette.

(5) The office of the Director of Forestry shall provide the Secretariat of the Board.

(6) The office of a member appointed pursuant to subsection (1) (b), (i), (ii) and (iii) shall become vacant—

(a) upon his death;

(b) if he is absent from three consecutive meetings of the Board without the approval of the Chairman or without other valid cause;

(c) upon the expiry of one month's notice in writing of his intention to resign his office given by the member to the Minister; and

(d) if he is convicted of an offence under the Act.

[Ch6301s17]17. Functions of the Board

The functions of the Board shall be to advise the Minister on all matters relating to tree and forest management in Malawi, including in particular but not limited to—

(a) advising on the declaration and revocation of areas which for the purpose of protecting forest species, biotic communities, sites of special interest or aesthetic values, the Board considers should be declared forest reserves or protected forest areas;

(b) advising on the import, export and re-export of tree species specimen into and out of Malawi;

(c) initiating, overseeing and approving environmental impact assessments in forest reserves, protected forest areas and fragile sites.

[Ch6301s18]18. Meetings of the Board

(1) The Board shall meet not less than twice a year at such places and times as the Chairman may determine.

(2) The Board shall further meet at any time at the request, in writing, of any three of its members.

(3) The Board may, at the discretion of the Chairman, invite any person or persons to attend any meeting of the Board and such person or persons may take part in the proceedings of the meeting but shall not be entitled to vote.

(4) In the absence of the Chairman from any meeting of the Board the members present, if constituting a quorum, shall elect one of their number to preside at the meeting.

(5) One third of the members of the Board shall constitute a quorum.

(6) At all meetings of the Board the decisions shall be reached by a simple majority, and the Chairman or other person presiding shall have, in the event of an equality of votes, a casting vote in addition to his deliberative vote.

(7) The Chairman of the Board shall report to the Board at each meeting thereof the action taken in respect of any matter on which the Board has advised the Minister.

(8) The Board shall determine its own procedure.

[Ch6301s19]19. Members of the Board not deemed public officers

A member of the Board, who is not a public officer shall not, by virtue only of his membership to the Board, be deemed to be an officer in the public service.

[Ch6301s20]20. Allowances

Members of the Board shall be paid an honorarium determined by the Minister and shall be paid reasonable travelling expenses and subsistence allowance while engaged upon the business of the Board at the rate prescribed by the Minister.

PART IV

FOREST RESERVES AND PROTECTED FOREST AREAS

[Ch6301s21]21. Purposes of this Part

The purpose of this Part is to provide for the declaration, conservation and management of forest reserves, protected forest areas and the biodiversity.

[Ch6301s22]22. Declaration of forest reserves

The Minister may, after consultation with the Minister responsible for land matters, by order published in the Gazette, declare any public land not already reserved for another public purpose to be a forest reserve.

[Ch6301s23]23. Acquisition of land for forest reserve

Any area of land proposed for a forest reserve and which is not public land shall first be acquired in accordance with the provisions of the Land Act and the Land Acquisition Act. Cap. 57:01, Cap. 58:04

[Ch6301s24]24. Management of forest reserves

In assuring the protection and management of forest reserves, the Director of Forestry shall prepare management plans as stipulated in section 5.

[Ch6301s25]25. Co-management of forest reserves

The Director of Forestry may enter into agreement with local communities for implementation of the management plans that is mutually acceptable to both parties.

[Ch6301s26]26. Declaration of protected forest areas

(1) Where the Minister finds that the protection of soil and water resources, outstanding flora and fauna requires that any area of land be maintained or established as a forest, the Minister may, by order published in the Gazette, after consultations with the Minister responsible for land matters, the

Minister responsible for agriculture, the Minister responsible for Irrigation and Water Development, the owner or occupier and, in case of customary land, the traditional authority, declare such land to be a protected forest area.

(2) Where the Minister considers that land which requires protection as a forest reserve or protected forest area, is liable to serious degradation if not immediately protected, the Minister may declare such land to be a protected forest area for such period not exceeding one year as may be necessary to complete the consultations required by section 22 or subsection (1).

[Ch6301s27]27. Management of protected forest areas

A declaration made under section 26 shall state the measures required for protection of the areas, the assistance to be provided by the Department of Forestry towards accomplishing such measures and the obligations of the owner, occupier or traditional authority to maintain and protect the forest resources of the area.

[Ch6301s28]28. Revocation of declaration

(1) The Director of Forestry may recommend to the Minister to revoke or modify, by notice published in the Gazette, a declaration of a forest reserve or protected forest area with respect to any land, and the Minister shall first require a comprehensive environmental impact assessment.

(2) The Minister may, by notice published in the Gazette, amend such order the purpose of which is to delineate or exercise land from a forest reserve or protected forest area subject to advice from the Board.

(3) Any environmental impact assessment made pursuant to the provisions of subsection (1), shall investigate the ecological consequences of proposed resolution of modification and the report of the assessment shall be submitted to the Minister together with the advice of the Director of Forestry within ninety days of completion of the assessment being made.

(4) The Minister shall not decide upon a proposal related to revocation or modification of a forest reserve or protected forest area until the Minister is in receipt of the report referred to in subsection (3).

PART V

CUSTOMARY LAND FOREST

[Ch6301s29]29. Purpose of this Part

The purpose of this Part is to provide for promotion of participatory forestry on customary land through protection, control and management of trees and forests by the people on customary land, the demarcation and management of village forest areas, ownership of indigenous forest trees, establishment of three nurseries and regulation of forest produce.

[Ch6301s30]30. Demarcation of village forest areas

Notwithstanding anything contained in this Act, any village headman may, with the advice of the Director of Forestry, demarcate on unallocated customary land a village forest area which shall be protected and managed in the prescribed manner for the benefit of that village community.

[Ch6301s31]31. Forest management agreement

(1) For the proper management of village forest areas, the Director of Forestry may enter into a forest management agreement with a management authority providing for—

- (a) the specifications of the nature of the forestry and other practices to be followed;
- (b) the assistance to be provided by the Department of Forestry and provision for use and disposition of the produce and revenue therefrom.
- (c) allocation of land to individuals or families for afforestation and revocation of such allocation if applicable provisions of the agreement are not adhered to by the occupier of the land so allocated;
- (d) formation of village natural resources management committees for the purposes of managing and utilizing village forest areas.

(2) Subject to the performance of unfulfilled obligations under a forest management agreement to the right of third parties, a forest management agreement may be terminated by either party.

(3) In the event of any dispute arising under a forest management agreement, the matter shall be referred to the Minister:

Provided that any party aggrieved with the Minister's decision may apply to the High Court for review of the Minister's decision.

(4) Any area designated as a village forest area but without the forest management agreement shall be managed in accordance with section 30.

(5) Any educational, religious or interested institutions in consultation with a village headman may demarcate, establish and manage a forest area or woodlot on customary land with the advice of the Director of Forestry subject to the provisions of subsections (1), (2) and (3).

[Ch6301s32]32. Minister may make rules

(1) The Minister may make rules which shall apply to all customary land outside forest reserves and protected forest areas.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) provide for the protection of water catchment and fragile areas, rehabilitation of degraded areas and any other activity which would be conducive to good land husbandry;

(b) facilitate the establishment and management of forest by village natural resources management committees for the benefit of local communities;

(c) encourage District Councils, non-governmental organizations and the private sector to contribute towards the provision of forestry extension services, as well as the establishment and management of plantations in accordance with guidelines provided by the Department of Forestry;

(d) provide for the establishment and maintenance of nurseries to provide seedlings for tree planting programmes;

(e) authorize the payment, of grants or bonuses out of public funds for the encouragement of forestry;

(f) provide for the declaration of endangered or essential tree species and their management;

(g) prescribe a mechanism for sharing costs and benefits between the Department of Forestry and village natural resources management committees in regard to forest produce confiscated from customary land forests.

[Ch6301s33]33. Approval of by-laws

Any rules made by village natural resources management committees shall be approved by the Minister.

[Ch6301s34]34. Right to naturally growing trees

(1) Any person who or community which protects a tree or forest, whether planted or naturally growing in any land which that person or community is entitled to use, shall acquire and retain the ownership of the tree and forest with the right to sustainable harvest and disposal of the produce.

(2) Any tree or forest owner under subsection (1) may seek the advice of the Director of Forestry on the management and utilization of his tree or forest.

PART VI

AFFORESTATION

[Ch6301s35]35. Purpose of this Part

The purpose of this Part is to provide for the promotion of tree growing in forest reserves, public land, customary land and private land by the Government, non-governmental organizations and the community.

[Ch6301s36]36. Forest plantation agreement

Notwithstanding anything to the contrary contained in this Act, the Minister may authorize the Director of Forestry to enter into a forest plantation agreement with any non-governmental organization or community who may wish to plant trees in forest reserves, public land, customary land and private land, and such agreement shall—

- (a) provide for the obligation to grow and manage tree species as specified in the agreement and in accordance with the plantations management plan which shall be approved by the Director of Forestry;
- (b) convey the right to harvest the forest plantation in accordance with the terms of the agreement;
- (c) provide for advice and assistance from the Department of Forestry in growing and managing the plantations;
- (d) specify obligations of each of the parties to the agreement.

[Ch6301s37]37. Right to planted forest produce

Any person who plants any tree species on any land which that person is entitled to use for that purpose shall acquire and retain the right to harvest the resulting produce and to dispose of it freely.

PART VII

FOREST PROTECTION

[Ch6301s38]38. Purpose of this Part

The purpose of this Part is to provide for the protection of trees, forest and forest produce against fires, pests and diseases.

[Ch6301s39]39. Prohibition against fires

- (1) No person shall light or cause to be lit a fire in any forest reserve or protected forest area except in places designated for that purpose or as otherwise authorized by an officer.
- (2) An officer may order the closure of any place designated for the lighting of fires in a forest reserve or protected forest area and no person shall during such closure permit a fire to be lit in such place.
- (3) No person shall light or cause to be lit a fire in any village forest area except with the authorization of the management authority subject to the provisions and conditions of the forest management agreement.

(4) Any person who lights a fire in or near a forest reserve, protected forest area or village forest area shall take all necessary precautions to prevent the fires escaping from control and shall be liable for any damage to the forest reserve, protected forest area or village forest area caused by any failure to take such precautions.

[Ch6301s40]40. Declaration of fire protection area

The Director of Forestry may, by notice published in the Gazette, declare any forest area to be a fire protection area and the notice shall regulate the lighting of fires in such area.

[Ch6301s41]41. Assistance in fire fighting

Any officer may require any person to assist in averting or extinguishing any fire threatening a forest reserve, protected forest area or village forest area.

[Ch6301s42]42. Forest pest and disease control

Notwithstanding anything to the contrary contained in this Act, the Minister may authorize the Director of Forestry to—

(a) order the spraying or clearing of a compartment of a plantation or of a whole plantation for the purpose of controlling the spreading of pests and diseases;

(b) control movement of timber and other forest produce through issue of permits as the pest and disease situation may demand;

(c) issue silvicultural notes and technical orders for purposes of controlling pests and diseases;

(d) suspend further planting of tree species which are susceptible to pests and diseases;

(e) provide for control of vermin causing excessive damage beyond economic threshold in forest reserves;

(f) provide for effective phytosanitation for all forest produce and all parts of the tree in accordance with the Plant Protection Act and to regulate importation of tree seed and other wood and forestry produce for purposes of pest and disease control. Cap. 64:01

[Ch6301s43]43. Prohibition of possession or use of weapons, traps, explosives, poisons or hunting animals

(1) Any person who conveys into, or possesses or uses within any forest reserve or protected forest area any weapon, trap, explosive, poison or hunting animal shall be guilty of an offence.

(2) This section shall not apply to any officer acting in the performance of his duties.

[Ch6301s44]44. Prohibition of deposition of litter and waste

Unless under a licence, no person shall deposit litter or noxious waste in forest reserves, protected forest areas and village forest areas.

PART VIII

UTILIZATION OF FOREST PRODUCE IN FOREST RESERVES AND CUSTOMARY LAND

[Ch6301s45]45. Purpose of this Part

The purpose of this Part is to provide for licensing and sustainable use of forest land and utilization of forest produce on customary land, public land, forest reserves and protected forest areas.

[Ch6301s46]46. Acts under licence

Unless under a licence, no person shall—

- (a) cut, take, fell, destroy, uproot, collect and remove forest produce from a forest reserve, customary land, public land and protected forest area;
- (b) cultivate crops, graze livestock, clear land, dig or break up land for any road or for any purpose whatsoever on such area of the forest reserve and protected forest area that may be specified in the licence;
- (c) prospect for and extract minerals in a forest reserve and protected forest area;
- (d) squat, reside, erect any building, livestock enclosures or any structure in a forest reserve and protected forest area;
- (e) perform such other acts as may be specified in the licence in the forest reserve and protected forest area.

[Ch6301s47]47. Permit for exportation, importation and re-exportation of forest produce

The Director of Forestry may issue to any person a permit in the prescribed form to export or import or re-export certain types of forest produce.

[Ch6301s48]48. Restrictions on, exports, import and re-exports of forest produce

The Minister may, in consultation with the Minister responsible for trade, make regulations imposing restrictions on imports and exports and re-exports of certain type of forest produce.

[Ch6301s49]49. Waiver of fees, etc.

The Director of Forestry may, subject to the general or special directions of the Minister, direct in writing that any fees or royalties payable under this Act shall be waived in whole or in part for a specified period.

[Ch6301s50]50. Forest produce from customary land

(1) A resident of any village may collect forest produce from customary land other than village forest areas for domestic use.

(2) Any disposal of forest produce in a village forest area shall be in accordance with the provisions of the applicable forest management agreement.

(3) Where the wood arising from any activity on customary land is in excess of community domestic needs, the excess wood shall be disposed of by the village natural resources management committee for the benefit of that community.

[Ch6301s51]51. Suspension of a licence

The Director of Forestry may, at any time that it appears to him that there has occurred or is about to occur a violation of any provision of this Act or of any condition of a licence, order the suspension of any or all operations under any licence until the licensee has taken necessary measures to remedy or prevent the violation.

[Ch6301s52]52. Grounds on which a licence may be refused

The Director of Forestry may refuse to issue a licence if—

- (a) the applicant fails to comply with any prescribed conditions;
- (b) any licence formerly held by the applicant under this Act has been revoked by the Director of Forestry within the previous twelve months;
- (c) the applicant has been convicted of an offence under this Act within the previous twenty-four months;
- (d) he is satisfied on reasonable ground that the applicant is not a fit or proper person to hold such licence; or
- (e) he is satisfied that the interest of forest management shall be better served by a temporary freeze in issuing of licence of that class.

[Ch6301s53]53. Cancellation of a licence

(1) The Director of Forestry may revoke any licence issued to any person under this Part if he is reasonably satisfied of the existence of any ground that would entitle him under section 52 to refuse to issue a licence to that person.

(2) The Director of Forestry shall notify the licensee in writing of any cancellation under this section and shall state his reasons in writing.

[Ch6301s54]54. Appeal to the Minister against refusal, suspension or cancellation of a licence

(1) An applicant who has been refused a licence under section 52 may, within thirty days, appeal to the Minister in writing.

(2) Any licensee whose licence is cancelled under section 53 may, within thirty days, appeal to the Minister in writing.

(3) The Minister may, on proper cause being shown, allow an appeal out of the time prescribed.

(4) The Minister shall be free to hear the views of the Director of Forestry in determining an appeal under this section and may uphold, vary or quash the decision of the Director of Forestry.

(5) Any person aggrieved by the decision of the Minister may apply to the High Court for a review of the Minister's decision.

PART IX

FOREST DEVELOPMENT AND MANAGEMENT FUND

[Ch6301s55]55. Establishment of the Fund

(1) There is hereby established a Fund to be known as the Forest Development and Management Fund (in this Act referred to as the "Fund").

(2) the Fund shall consist of—

- (a) such sums as shall be appropriated by Parliament for the purpose of the Fund;
- (b) advances made to the Fund under section 57;
- (c) such sums as may be received for the purposes of the Fund by way of voluntary contributions;
- (d) levies from a metre cube of wood felled or extracted by the Forestry Department;
- (e) payments made into the Fund under section 12; and
- (f) such sums or other assets may be donated for the purposes of the Fund by any foreign government, international agency or foreign institution or body.

[Ch6301s56]56. The Fund to vest in the Minister

The Fund shall be vested in the Minister and, subject to this Act, shall be administered in accordance with his directions subject to the provisions of the Finance and Audit Act. Cap. 37:01

[Ch6301s57]57. Advances to the Fund

If in any financial year the income of the Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Fund, the

Minister responsible for finance may make advances to the Fund in order to meet the deficiency or any part thereof and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Minister responsible for finance may determine.

[Ch6301s58]58. Objects of the Funds

The objects for which the Fund is established shall be the conservation, augmentation and management of forest resources and forest lands in Malawi.

[Ch6301s59]59. Application of the Fund

Without derogation from the generality of section 57, the Fund may be applied to—

- (a) the inculcation of the twin concepts of multiple purpose management and sustainability in forestry into local communities;
- (b) the provision of an enabling environment for the participation of the local communities in forest management and conservation;
- (c) maintenance of equipment and records;
- (d) the cost of any scheme which the Minister considers to be in the interest of the management of forest reserves;
- (e) meeting any expenses arising from the establishment and maintenance of the fund; and
- (f) any purpose which the Minister considers to be in the interest of the objects of the Fund.

[Ch6301s60]60. Books and other records of accounts, audit and reports of the Fund

(1) The Minister shall cause to be kept proper books and other records of account in respect of receipts and expenditures of the Fund in accordance with the provisions of the Finance and Audit Act. Cap. 37:01

(2) The accounts of the Fund shall be audited by the Auditor General, who shall have all powers conferred upon him by the Finance and Audit Act. Cap. 37:01

(3) The Minister shall cause to be prepared, as soon as practicable, but not later than six months after the end of the financial year, an annual report on all the financial transactions of the Fund.

(4) The report under subsection (3) shall include a balance sheet, an income and expenditure account and annual report of the Auditor General and shall be laid by the Minister before the National Assembly.

[Ch6301s61]61. Holdings of the Fund

(1) All sums received for the purposes of the Fund shall be paid into a bank account and no amount shall be withdrawn therefrom except by means of cheques signed by such persons as are authorized in that behalf by the Minister.

(2) Any part of the Fund not immediately required for the purposes of the Fund may, on the recommendation of the Board, be invested in such manner as the Minister, after consulting with the Minister responsible for finance, may determine.

[Ch6301s62]62. Financial year

The Financial year of the Fund shall be the period of twelve months ending on 31st March in each year.

PART X

OFFENCES AND PENALTIES

[Ch6301s63]63. Purpose of this Part

The purpose of this Part is to define offences against this Act and to provide for penalties.

[Ch6301s64]64. Offences relating to forest reserves and protected forest areas

Any person who, without authority under this Act—

(a) fells, cuts, takes, destroys, removes, collects, uproots any indigenous tree or forest property in a forest reserve or protected area;

(b) connives with or causes another person to fell, cut, take, destroy, remove, collect, uproot any indigenous tree or forest property in a forest reserve or protected area;

(c) squats, resides, erects a building, hut, livestock enclosures or any structure in a forest reserve or protected area;

(d) clears, cultivates, digs or breaks up land for any road or for any purpose whatsoever and grazes livestock in a forest reserve or protected areas,

shall be guilty of an offence and liable upon conviction to a fine of K5,000 and to imprisonment for a term of two years.

[Ch6301s65]65. Offences relating to fires

(1) Any person who lights or causes to be lit a fire in a forest reserve, protected forest area or village forest area in contravention of section 39 shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of five years.

(2) Any person who permits a fire to burn out of control in, or to spread to a forest reserve or village forest area shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of five years.

(3) Any person who, without reasonable cause, refuses to assist in averting or extinguishing a fire when required to do so under section 41, shall be guilty of an offence and liable upon conviction to a fine of K2,000 and to imprisonment for a term of one year.

[Ch6301s66]66. Offences relating to wildlife

Subject to the provisions of this Act, any person who—

- (a) pursues, kills, hunts, molests, captures or injures any animal, bird, fish, or reptile;
- (b) collects eggs or spawns from a forest reserve, a protected forest area or a village forest area,

shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of five years.

[Ch6301s67]67. Offences relating to forest pests and diseases

Any person who knowingly contravenes the provisions of section 43 of this Act shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of five years.

[Ch6301s68]68. Offences relating to possession or trafficking of forest produce

(1) Any person who—

- (a) knowingly received forest produce illegally; or
- (b) is found in possession of forest produce without a permit;
- (c) trafficks in forest produce without a licence, shall be guilty of an offence.

(2) Any person who is convicted of an offence under subsection (1) shall be liable to a fine upon conviction of K20,000 and to imprisonment of ten years.

[Ch6301s69]69. Offences relating to obstruction of officers

Any person who—

- (a) obstructs or hinders any officer in the performance of his functions under this Act;
- (b) wilfully or recklessly gives to any officer false or misleading information which the officer is entitled to obtain under this Act;

(c) refuses to furnish to any officer on request, particulars or information which the officer is entitled to obtain under this Act, shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of five years.

[Ch6301s70]70. Offences relating to official documents or stamps

Any person who, without lawful authority—

(a) counterfeits or alters any licence, permit or pass required under this Act;

(b) alters or defaces any prescribed document issued under this Act;

(c) makes upon or affixes to any forest produce a mark used in connexion with forest produce by the Department of Forestry,

shall be guilty of an offence and liable upon conviction to a fine of K20,000 and to imprisonment for a term of ten years.

[Ch6301s71]71. Offences relating to possession or use of weapons, traps, explosives and poisons for hunting animals

(1) Any person who contravenes the provisions of section 43 shall be guilty of an offence and liable upon conviction to a fine of K20,000 and to imprisonment for a term of ten years.

(2) This section shall not apply to any officer acting in the performance of his duties.

[Ch6301s72]72. Offences relating to deposition of litter and waste

Any person who contravenes the provisions of section 44 shall be guilty of an offence and liable upon conviction to a fine of K5,000 and to imprisonment for a term of two years.

[Ch6301s73]73. Offences relating to import, export and re-export of forest produce

Any person who imports, exports or re-exports or attempts to import, export or re-export any forest produce—

(a) through any place other than a custom's post or port; or

(b) without producing to a customs officer a valid licence to import or export or re-export the forest produce as the case may be,

shall be guilty of an offence and liable upon conviction to a fine of K10,000 and to imprisonment for a term of not less than five years.

[Ch6301s74]74. Additional orders upon conviction

(1) Upon conviction of any person of an offence under this Act, the court may in addition to any other penalty provided by this Act, order—

(a) that any forest produce which has been used in the commission of the offence shall be forfeited to the Government;

(b) that where any forest produce has been damaged, injured or removed in the commission of the offence, the person convicted shall pay compensation equivalent to the value of the forest produce so damaged, injured or removed;

(c) that the person convicted shall pay ten times the amount of any royalties and other fees which, had the act constituting the offence been authorized, would have been payable in respect thereof;

(d) the demolition and removal of any building, enclosure, hut, kraal, structure or anything erected, standing or being in the area in contravention of this Act;

(e) the destruction, uprooting or removal of any crop standing or being in the area in contravention of this Act;

(f) the seizure of any carrier or vehicle which has been used in committing the offence.

(2) Where an order is made under subsection (1) in respect of forest produce from a village forest area, the forest produce and article ordered to be forfeited and the amount ordered to be paid shall be forfeited and paid to the management authority in respect of that area.

[Ch6301s75]75. Authority to compound offences

(1) The Director of Forestry may authorize any officer not below the rank of Principal Forestry Officer where the Director of Forestry is satisfied that an offence against this Act has been committed, and such person consents in writing to compounding under this section, to compound such offences by charging a sum of money not exceeding one and half the maximum fine prescribed for the offence and no further court proceedings shall be instituted.

(2) Where any article has been seized in connexion with the offence compounded under this section, the officer compounding the offence shall dispose of the article according to section 11.

(3) Any offence in respect of which a prosecution is actually pending shall not be compounded under this section other than with the consent of the court before which the prosecution is pending.

(4) Any money received and any article confiscated under subsection (1) or (2) in respect of forest produce from a village forest area shall be paid to the management authority in respect of that area.

PART XI

INTERNATIONAL COOPERATION IN FORESTRY

[Ch6301s76]76. Purpose of the Part

The purpose of this Part is to provide for the promotion of the management of cross-border forests and forests resources and implementation of agreed national obligations arising from bilateral, regional and international environmental and other related Conventions to which Malawi is a party.

[Ch6301s77]77. Cross-border management

For the proper management of cross-border forests and forest resources, the Director of Forestry may jointly produce management plans which shall lead to the realization of common forestry goals in cross-border areas.

[Ch6301s78]78. Regional fora

Implementation of common plans may be reviewed in regional fora such as Joint Permanent Commissions of Cooperation, the Southern Africa Development Community and others.

[Ch6301s79]79. Cross-border trade in forest produce

To assure sustainable utilization and marketing forest resources across borders, the Director of Forestry shall institute mechanisms for the verification of the legality of the forest produce being imported or exported.

[Ch6301s80]80. Implementation of agreements

The Minister may, by an order published in the Gazette, specify the measures for the proper implementation of relevant provisions of any convention on forestry to which Malawi is a party.

PART XII

MISCELLANEOUS

[Ch6301s81]81. Charcoal licensing

(1) No person shall make or sell charcoal from indigenous timber or tree except pursuant to a licence issued under this section.

(2) Upon application in the prescribed form, a licensing officer may, where the officer finds that the making of charcoal shall utilize plantation timber or indigenous timber or trees consistently with the applicable forest management plan or forest management agreement or forest plantation agreement, issue a licence to make charcoal in such quantity and from such timber or trees as may be specified in the licence.

[Ch6301s82]82. Permit for wood using and wood processing industries

No person shall engage in commercial processing of any wood or forest produce without a permit from the Director of Forestry and such commercial wood processing industries shall include—

(a) tobacco curing, brick and tile making, wood carving, lime making, bamboo baskets making and chair making; and

(b) wood processing industries, including sawmilling, veneer and plywood, blackboard, fibre and particle board, pulp and paper and any other industries.

[Ch6301s83]83. Utilization of and trafficking in indigenous timber from private land

(1) No indigenous wood shall be moved from any private land to any place outside the private land without a permit issued by the Director of Forestry. Any revenue realized from the removal of the indigenous wood from leasehold land shall all accrue to the village natural resources management committee in the area.

(2) No indigenous endangered tree species shall be cut down without the written permission of the Director of Forestry.

(3) Indigenous wood may be used on a sustainable basis for any purpose within the demised area without the written permission of the Director of Forestry.

[Ch6301s84]84. General indemnity

The Director of Forestry or any other officer shall not be held liable in damages or otherwise to any person by reason of his exercise or non-exercise in good faith of the powers vested in him under this Act.

[Ch6301s85]85. Disposal of forest produce from private land

On application by a lessee in accordance with the Land Act, the Director of Forestry may grant permission for forest produce to be removed from, and used outside, the demised premises on payment of all prescribed royalties to the village natural resources management committee in the area. Cap. 57:01

PART XIII

REGULATIONS

[Ch6301s86]86. Regulations

The Minister may make regulations for carrying this Act into effect and, without prejudice to the generality of the foregoing, such regulations may—

- (a) prescribe the form and contents of any application, licence or agreement;
- (b) prescribe the conditions of any category of licence or agreement;
- (c) prescribe the rates and manner of payment of royalties, application fees and other fees;
- (d) regulate or prohibit access to any part of a forest reserve;

- (e) regulate forest utilization practices;
- (f) require the recording and reporting of information regarding sustainable utilization of forest and forest produce and approving the form, contents and manner of making records and reports, as submitted by the Director of Forestry;
- (g) prescribe the methods and requirements of scaling and making forest produce;
- (h) prescribe the marks to be used by officers in connexion with forest produce;
- (i) provide for the registration of forest property marks and regulating their use;
- (j) prescribe standards for the grading of wood and wood products, and requiring that any wood or wood product be graded according to such standards;
- (k) regulate the transportation, processing, sale of forest produce, including competitive bidding, and requiring permits, licences and documentation of such activities; and
- (l) prescribe anything required to be prescribed under this Act.

PART XIV

REPEAL AND SAVINGS

[Ch6301s87]87. Repeal and savings

- (1) The Forest Act is hereby repealed.
- (2) Any subsidiary legislation made under the Act repealed by subsection (1) in force immediately before the commencement of this Act— Cap. 63:01
 - (a) shall, unless in conflict with this Act, continue in force and be deemed to be subsidiary legislation made under this Act;
 - (b) may be replaced, amended or repealed by subsidiary legislation made under this Act.
- (3) Any agreement or similar arrangement made pursuant to the provisions of the Act repealed by subsection (1) shall continue in force until terminated in accordance with terms and conditions thereof.

SUBSIDIARY LEGISLATION

FORESTRY RULES

G.N. 28/2001

49/2003

8/2006

PART I

PRELIMINARY

1. Citation

These Rules may be cited as the Forestry Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

“council” has the meaning assigned thereto in the Local Government Act; Cap. 22:01

“firewood” means all straight parts of a tree which do not exceed two metres in length and includes all crooked and unsound parts of any size;

“log” means all sound, straight parts of a tree which are more than two metres long and more than twenty centimetres mean diameter;

“pole” means all sound, straight parts of a tree which are more than two metres long but not more than twenty centimetres mean diameter;

“protected trees” means the trees specified in the First Schedule;

“public road” has the meaning assigned thereto in the Public Roads Act; Cap. 69:02

“stacked cubic metre” means a stack of firewood one metre in length, in width and in height.

PART II

PROHIBITION AND OFFENCES AND FIRE PROTECTION IN FOREST RESERVES

3. Acts prohibited without a licence

No person shall, without a licence in that behalf issued under these Rules, do or cause to be done in a forest reserve any of the following acts—

(a) fell, cut, take, work, burn, injure or remove any tree or forest produce;

(b) squat, reside, erect any building, hut or cattle enclosure:

Provided that nothing in this paragraph shall require the issue of a licence in any case where a person resides in a forest reserve under the terms of a lease granted by the Minister responsible for land;

(c) graze or pasture livestock or permit livestock to trespass;

(d) clear, cultivate or break up land for the construction of any road, for cultivation, or for any other purpose whatsoever;

(e) pursue, kill or capture animals or birds;

(f) alter or remove any beacon, boundary mark or fence;

(g) camp in any forest reserve, without observing the rules from time to time affecting such camping; and

(h) keep bees or collect honey or beeswax.

4. Precautions by those contiguous with a reserve

The Director of Forestry may require the owner or occupier of any land contiguous to a forest reserve to take such reasonable precautions to prevent a fire spreading from such land into a forest reserve as the Director of Forestry may specify in writing from time to time.

5. Director of Forestry shall have boundaries indicated

The Director of Forestry shall cause the boundaries of every forest reserve to be indicated in as clear a manner as he considers reasonable in all the circumstances.

PART III

VILLAGE FOREST AREAS

6. Acts prohibited without Village Natural Resources Management Committee permission

No person shall, without the permission in writing of the Village Natural Resources Management Committee in whose name a village forest area has been registered—

(a) squat or reside or erect any building, hut or cattle enclosure;

(b) graze or pasture livestock or permit livestock to trespass;

(c) clear, cultivate or break up land for cultivation or otherwise;

(d) alter or remove any beacon, boundary mark or fence;

(e) fell, cut, take, work, burn, injure or remove any tree or forest produce;

(f) set fire to any grass or undergrowth; or

(g) keep bees or collect honey or beeswax, in the village forest area.

7.

No person shall, for any purpose whatever, kindle any fire within a village forest area without taking all reasonable and proper precautions to prevent damage to any forest produce within such village forest area.

PART IV

LICENCES

8. Special conditions on licences

(1) There may be endorsed on any licence issued under the Act special conditions.

(2) Special conditions referred to in subrule (1), may relate to one or more of the following—

(a) the provision by the licensee of a deposit, guarantee, surety, security, liquidated damages or sum of money to be drawn upon or confiscated for non-fulfilment or breach of the conditions of the licence;

(b) the information which may be required to be given to a forestry officer by the licensee, concerning his operations and concerning the transport, manufacture production, output, sale, use, export or import of the forest produce taken under his licence, the records to be kept by him and the returns to be submitted to a forestry officer;

(c) the liability of the licensee for damage to trees or other forest produce due to his negligence or to the negligence of his officers, agents or servants;

(d) the methods by which and the order in which operations of exploitation, fire protection and fire fighting should be carried out;

(e) the measuring or computing or recording of forest produce by methods other than those specified in these Rules; and

(f) the construction, layout and operation of tramway, waterways and roads for the extraction of forest produce, and the transport of such produce to depots or along specified routes or for any other purpose whatsoever.

9. Limits on licences

No licence shall grant exclusive rights.

10. Persons who may take under licence

No person shall take, purchase or be in possession of any forest produce to which a licence relates except with the authority of the licensee.

11. Produce derived from operations of licence

All forest produce derived from the operations of a licensee, except the produce which the licensee is authorized to take under the terms of his licence, shall remain the property of the Government.

12. Fees and Royalties

(1) The royalties to be paid in respect of forest produce taken, or for cutting and taking, under licences issued under these Rules shall be those set out in the Second Schedule:

Provided that the Director of Forestry may dispose of planted trees or forest produce derived from forest reserves or public land or from artificially established plantations.

(2) The fees to be paid in respect of licences for—

- (a) camping;
- (b) residing in rest houses, lodges, cottages or huts;
- (c) operating business;
- (d) import or export of forest produce;
- (e) scientific collection of forest produce;
- (f) the grazing of livestock; and
- (g) the keeping of bees,

shall be those set out in the Third Schedule.

13. Cutting of trees

(1) No licence to cut forest produce shall, in the absence of express provision to that effect, be deemed to authorize the cutting of a protected tree or a tree situated within—

- (a) a forest reserve;
- (b) a strip of land situated within or on either side of a watercourse;
- (c) protected hill slope; or
- (d) eight metres of a public road.

(2) A strip of land shall be deemed to be situated on either side of a watercourse if it is situated within a minimum width of one metre and a maximum of eight metres from the banks of the watercourse:

Provided that the width of the strip of land may be increased or decreased, subject to a maximum of eight metres, by the Minister issuing a notice to the occupier of the land.

PART V

FELLING CONDITIONS

14. Height of cutting point

Unless otherwise stated in the licence, trees shall not be cut higher than forty-five centimeters from the ground.

15. Manner of cutting

All felling, cutting, exploitation, conversion and other operations performed under licence shall be carried out in such manner as to cause the least possible waste of, or damage to, forest produce and stump.

16. Disposal of waste

All branch wood, slash, and waste left in any forest reserve shall, within one month of the felling of the tree or trees from which such branch wood or waste was derived, be cut up and drawn clear for a distance of not less than five metres from all growing trees and fresh stumps.

PART VI

MEASUREMENT AND REMOVAL OF FOREST PRODUCE

17. Volume of timber fires

Unless otherwise laid down in any licence—

(a) the volume of timber in a log shall be calculated by multiplying the length from end to end, by the mean cross-sectional area, as determined from the mean diameter measured under bark;

(b) the volume of a stand shall be calculated by multiplying the stand area by the stocking and the mean tree volume; and

(c) the diameter of a pole shall be the diameter measured at the butt end over bark.

18. Stacking of firewood

All firewood cut under licence shall be assembled in stacked cubic metres before removal or conversion into charcoal, unless the forestry officer who issued the licence shall have endorsed on the licence permission to stack in any other manner.

19. Removal of produce

No sawn timber, logs or poles shall, unless permission to the contrary be endorsed on the licence, be removed until such produce has been measured or checked by a forestry officer.

20. Time for removal of produce

All forest produce cut under licence shall, unless permission to the contrary be endorsed on the licence, be removed within three months of the date of the expiration of the licence.

21. Until fees paid, produce is Government property

Until fees have been paid forest produce licensed to be taken and removed shall remain the property of the Government and may not be charged, hypothecated, mortgaged, sold, ceded or assigned, nor may any lien be created thereon.

PART VII

OFFENCES AND PENALTIES

22. Offence and Penalty

Any person who contravenes any of the provisions of these Rules or any of the conditions of any licence granted to him under these Rules shall be guilty of an offence and liable to a fine of K1,000 and to imprisonment for three months.

FIRST SCHEDULE reg. 2

PROTECTED TREES

Botanical Name Vernacular Name
Adina microcephala Mwenya, Chonya, Mgweya, Mung'ona, Mwina, Mungwina, Mluona
Afzelia quanzensis Mkongomwa, Msokosa, Mnangaliondo, Ipapa, Mpapa, Mpapadende
Borassus aethiopum Mvumo, Mdikwa, Makoma, Mulala
Bridelia micrantha Msopa, Chisopa, Mpasa, Mlewezi, Msongamino, Mwisya
Burkea africana Mkalati, Kalinguti, Kawidzi, Kawidzu, Nakapanga
Colophospermum mopane Tsanya, Sanya, Ntsano, Mopani, Mpani
Cordyla africana Mtondo
Hypaene crinita Mgwalangwa, Mkomkoma, Makoma, Mulala
Khaya anthotheca Mbawa, Muwawa, Bulamwiko
Pterocarpus angolensis Mlombwa, Mtumbati, Mbira, Nawazi
Terminalia sericea Naphini, Nyapini, Mpini, Nalinsi, Mkodoni, Mpululu, Njoyi
Widdringtonia cuppresodes Mkungudza
Dalbergia melanoxylon Phingo, Nanyula, Kasalusalu, Kasarusaru
Percopsis angolensis Muwanga

SECOND SCHEDULE reg. 13 (1), G.N. 28/2001, 49/2003, 8/2006

ROYALTIES

1. INDIGENOUS TREES

FEES	Price per Tree	Class	Botanical Name	Vernacular Name	K t	Khaya anthotheca Mbawa, Muwawa, Bulamwiko
3,50000	Entandrophragma excelsum	Mukarikari, Mululu	3,50000	Adima microcephala	Mwenya, Chonyo, Mwina, Mungwira	Mung'ona, Mgwenya, Mluona, Chonya, Mgona
3,50000	Chlorophora excelsa	Ngunda, Mvule	3,50000	Combretum imberbe	Msimbiti, Manangoli, Mnangali, Mkolong'onjo	3,50000
3,50000	Trichilia emetica	Msikidzi, Msyunguti, Msikidza				

3,50000Colophospermum mopane Tsanya, Sanya, Mopani, Mpani 3,50000Dalbergia melanoxylon Phingo, Kasalusalu Nanyula, Kasarusaru 3,50000Pterocarpus angolensis Mlombwa, Mtumbati Mtumbai 3,50000Pericopsis angolensis Muwanga, Mubanga Mbanga, Mwanga3,50000II Ocotea usambarensis Botoko 3,00000Strombosia scheffleri Mvivi 3,00000Entandrophragma Caudatum Nayalai, Napalali, Gundang'oma, Nagalawe 3,00000Apodytes dimidiata Mzaza, Katole, Mchima Msuiwi, Mnyembedwe, Mtibulo 3,00000Burttdavya nyasica Mbvule 3,00000Albizia gummifera Mtangatanga, Bua, Chikwani, Chikolola (Skapya), Mpumulo 3,00000Piptadenia buchanani Mkweranyani, Mkuwi, Mviho, Mcheujeu, Mtidi, Kangubwe, Mzunjere, Msingati 3,00000Afzelia quanzensis Mkongomwa, Msambafumu, Mpapadende, Mpapa, Ipapa 3,00000Newtonia buchanani Mkweranyani 3,00000Podocarpus species Nanjula, mwenye, Mkachi, Nkanguni, Mkute, Kawidzi 3,00000Burkea africana Mkalati3,00000Bombax stolzii Mtonjeranga, Thonjemanga 3,00000Swartzia madagascarensis Chinyenye, Kampango3,00000IIIChrysophyllum species Mutu, Chifira, Mufu, Nyundo, Njale, Namazuwa, Mlombeya 2,00000Sterculia species Msetanyani, Njale Mgoza, Mpepe 2,00000Diospyros mesopiliformis Msumwa, Mchenje, Mchenya, Nyelenje 2,00000Dialiopsis africana Mtalala, Mlimbauta, Masakala, Mtutumuko, Chiwangalanya 2,00000Faurea species Musese, Chinsense Chiere2,00000Mitragyna rubrostipulata Mufwafwada2,00000Cordyla africana Mtondo2,00000Polyscias fulva Mpembati, Mukwajo Mwaja, Mwaza 2,00000Sclerocarya caffra Mtondowoko, Mfula, Mzere, Msewe, Musele, Msebe2,00000Terminalia, sericea Naphmi, Mpululu, Njoyi, Nalinsi, Gonondo2,00000Ficalhoa laurifolia Ndopa, Mlunganya, Muuse2,00000Bridelia micrantha Mpasa, Msopa, Mlewezi, Mwisya, Msongamino 2,00000Hagenia anthelmintica Mkwerete, Mkwale2,00000Parinari species Mvuula, Mukanjaula, Mukantara, Pempu 2,00000Acacia Polyacantha Mthethe, Chigongolo Mgobe 2,00000Rauvolfia caffra Mwimbi, Mvumbamvula, Nanyungu, Muimbi, Munyezani, Nyensani 2,00000IVParkia filicoidea Mkundi, Mgundi, Musyepwa 1,80000Xymalos monospora Mblaka, Mpelekeso, Mpekeso, Nakaswaga, Chikakalaka1,80000Fagara species Pupwe, Nkurungu, Mlunguchulu 1,80000Vitex doniana Mpindimbi, Mfuru, Msimpsya, Mfulu, Mpyumbya, Mpsympysya 1,80000VAll other non-planted species 1,80000VIWiddringtonia Cuppresoides Mkungusa, Mkungudza, Mulanje 8,00000Juniperus procera Changalumwe6,00000

2. EXOTIC TREES

Per m3Class Botanical Name Vernacular NameK tCypress species Mkungudza2,00000Eucalyptus Bulugamu1,00000Gmelina arborea Malayina1,00000Pinus species Payini 1,10000

3. POLES

Species Butt diameter Bark

(in centimetres) Per poleEucalyptus and other exotic species not specified elsewhere in this Scheduleless than 640006 but less than 8 50008 but less than 10800010 but less than 121000012 but less than 14 1200014 but less than 161500016 but less than 181600018 but less than 201700020 and overby volumeIndigenous speciesless than 6 50006 but less than 8 80008 but less than 10 1000010 but less than 12 1200012 but less than 14 1600014 but

less than 16 1700016 but less than 18 1800018 but less than 20 1900020
and over by volume

4. FUEL WOOD

Type Proposed Rate

(domestic use) Proposed Rate

(industrial use) K t K t Exotic fuelwood, cut and stacked by purchaser, per cubic metre (m³) 5000090000 Indigenous fuelwood, cut and stacked by purchaser per cubic metre (m³) 700001,20000 Exotic fuelwood, per headload 1000N.A. Indigenous fuelwood, per headload 2000N.A. Exotic fuelwood, per bicycle load 7000N.A. Indigenous fuelwood, per bicycle load 10000N.A.

5. BAMBOO

Butt diameter (in centimetres) Per Pole Kt Less than 5 centimetres 5005 but less than 10 100010 centimeters and above 2000

6. PALMS

Botanical Name Vernacular Name Per Pole Kt Phoenix reclinata Kanjedza, Kanchinda, Kanjesa 1,50000 Hyphanena Crinita Mgwalangwa, Makoma 1,50000 Borassus aethiopium Palm leaves Mvumo, Makoma 1,50000

7. PLANTS

Per plant Kt Wild Cycads and Succulents 5,00000

8. NON-WOOD FOREST PRODUCTS (NWFP)

Fruits, Vegetables, Mushrooms, Caterpillars, Insects, Tubes, Tubers, Thatch grass Free

9. OTHER FOREST PRODUCE

Royalties in respect of other forest produce may be determined by agreement between the Director of Forestry and the buyer.

10. DISCRETION

The Director of Forestry may sell produce in this Schedule by Competitive Bidding.

THIRD SCHEDULE reg. 13 (2), G.N. 28/2001, 49/2003, 8/2006

1. REST HOUSE OCCUPATION Per person

per night Kt Kazela Guest House—(a) executive room, self contained 1,50000 (b) executive room, self contained, double 2,00000 (c) ordinary room, sharing toilet and shower room— (i) single 70000

(ii) double 1,00000Kasito Lodge I—(a)per bed 800 00(b)exclusive use of room3,20000Kasito Lodge II—(a)per bed 70000(b) exclusive use of room 1,40000Mangochi Forestry Guesthouse, per bed 500 00Chintheche Forestry Guesthouse, per room 50000Children under 5 years of age no feeChildren 5 to 12 years50% of adult rate2. CAMPINGCamping on rest house ground with access to refrigeration75000Camping on rest house grounds without access to refrigeration 50000Camping at a permanent camp site in a forest reserve50000Camping at any other place in a forest reserve40000Hut occupation, other than a permanent Campsite700003. BUSINESS OPERATIONS(a)Pit sawing—K t(i)application fee1,000 00(ii)operational fee, per sawing season 7,50000(iii) residential fee, per 6 m2 hut, per season80000(b)Mobile Sawmill—(i)application fee2,00000(ii)operational fee, per sawmill, per sawing season12,00000(iii)yard/site fee2,00000(iv)residential fee, per 6 m2 hut1,00000(c)Permanent sawmill—(i)application fee, per sawmill20,00000(ii)operational fee, per sawmill, per annum50,00000(iii)residential fee, per m2, per annum (any development structure) 10000(d)Construction of Lodges/Camps /Rest Houses/Huts—(i)application fee5,00000(ii)operational fee, per annum12,00000(e)Beekeeping, application fee, per hive 20000(f)Abstraction of water from a forest reserve—(i)application fee 15,00000(ii)forest management feeto be negotiated(iii)permanent structure fee, per m2 60000(g)Abstraction of water from a forest reserve for generating hydro electric power—(i)application fee15,00000(ii)environmental levy, per annum to be negotiated(iii)permanent structure fee, per m2 60000(h)Water tank construction in a reserve—(i)application fee 2,000 00(ii)operational fee, per annum5,00000(i)Dam construction for commercial purposes—(i)application fee5,00000(ii)operational fee, per annum20,00000(j)Dam construction-local communities—(i)application feeFree(ii)operational fee, per annumFree(k)Grocery—(i)application fee, per building2,00000(ii)operational fee, per building, per annum 5,00000(iii)residential fee per m2, per annum20000(l)Maize Mill—(i)application fee1,000 00(ii)operational fee, per annumFree(iii)residential fee, per m220000(m)Private School—(i)application fee 2,00000(ii)operational fee, per annum 7,000 00(iii)residential fee, per m2, per annum 20000(n)Church/Mosque building—(i)application fee2,00000(ii)residential fee, per annum 50000(o)Regular religious ceremonies in a forest reserve—(i)application fee1,000 00(ii)residential fee per temporary structure, per annum 2,00000(p)Installation of telecommunications equipment—(i)application fee5,00000(ii)operational fee, per annum 50,00000(iii)site/yard fee per m2 60000(q)Installation of electricity grid—(i)application fee 5,00000(ii)operational fee per km, per annum 1,00000(r)Installation of telephone lines—(i)application fee 5,00000(ii)operational fee, per km, per annum 1,00000(iii)residential fee per 6 m2 temporary hut, per annum1,00000(s)Tour operators in a forest reserve—(i)application fee1,50000(ii)operational fee, per annum7,00000(iii)temporary structure fee, per m2 of the structure 10000(t)Picnic/sightseeing/trekking—(i)students and pupils (Malawian) Free(ii)others, entry fee, per head 20000(iii)vehicle entry fee, per tonne 10000(u) Hunting—(i)application fee 50000(ii)operational fee, per day 2,00000(v)Ranching—(i)application fee, per animal, per 15 hectares5,00000(ii)operational fee, per hectare, per annum50000(iii)residential/structure fee, per m210000(w)Grazing, adjacent communities, per head 5000(x)Road construction in a forest reserve—(i)application fee 10,00000(ii)environmental rehabilitation feebased on number of trees felled and/or damaged(y)Collection of forest biodiversity resources for scientific purposes—(i)application fee 10,00000(ii)operational fee, per collection 4,00000(z) Ornamental tree collection—(i)application fee, per collection1,00000(ii)operational fee, per annum 2,00000(aa)Gemstone mining/quarry operation—

(i) application fee 5,000 (ii) operational fee, per annum 10,000 (iii) residential fee, per 6 m² hut 1,000 (bb) Arts and craft in forest reserve—(i) application fee 50,000 (ii) operational fee, per annum 2,000 (iii) residential fee, per 6 m² hut 1,000 (cc) Curio making—(i) application fee 1,000 (ii) operational fee, per annum 2,000 (dd) Fishing (sport)—(i) application fee 50,000 (ii) operational fee, per annum 5,000 (ee) Aquaculture (Fish Farming)—(i) application fee 5,000 (ii) operational fee, per hectare, per annum 50,000 (iii) residential/structure fee, per m² 10,000

FORESTRY (COMMUNITY PARTICIPATION) RULES

under s. 32

G.N. 29/2001

PART I

PRELIMINARY

1. Short title

These Rules may be cited as the Forestry (Community Participation) Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

“community” includes village natural resources management committees, local authorities, by whatever name called, non-governmental organizations and the private sector.

PART II

COMMUNITY PARTICIPATION

3. Objectives of community participation

The objectives of community participation shall be—

- (a) to promote co-management of forest resources;
- (b) to sustainably manage forests on customary land;
- (c) to empower the community in the management of forest resources in forest reserves and forests on customary land;
- (d) to promote community tree-planting and management;
- (e) to promote the role of men, women and the youth in the management of forest resources;

(f) to enhance sustainable management, conservation and utilization of forest resources;
and

(g) to share costs and benefits between the Department of Forestry and the community in regard to forest produce from customary land forests and forest reserves.

4. Duties of community

(1) A community shall have the responsibility of conserving and managing the forest resources within its area of jurisdiction in collaboration with the Director of Forestry.

(2) Without derogating from the generality of the provisions of sub-rule (1), a community shall have power to—

- (a) develop a reciting system in collaboration with the Director of Forestry;
- (b) enforce any forestry regulations as mandated by the Director of Forestry;
- (c) seize any forest produce reasonably believed to have been obtained in contravention of the Act; and
- (d) to convey to the Board and the Director its recommendations on the conservation and management of forest resources.

5. Committees of a community

A community may, for the proper management of its affairs, under these Rules, form such committees as the community may deem appropriate.

6. Constitution of a community

A community shall adopt a constitution by which the operations of that community shall be governed.

7. Management plan

A community shall, with the assistance of the Director of Forestry, prepare a management plan for purposes of ensuring sustainable forest management, conservation and utilization.

8. Access to records

The Director of Forestry shall have access to all records kept by a community pursuant to these Rules.

9. Consultations on Forestry plans, regulations, etc.

Except where it is unnecessary or impracticable to do so, regulations and any other subsidiary legislation related to the sustainable conservation, management and utilization of forestry resources shall not be made or amended unless the Director of Forestry has carried out consultations with the community.

10. Meetings with the Director

A community may request meetings with the Director of Forestry to discuss management plans, regulations or any other subsidiary legislation or amendment thereto.

FORESTRY (MULANJE CEDAR) (LICENSING) RULES

under s. 26

G.N. 25/2001

1. Citation

These Rules may be cited as the Forestry (Mulanje Cedar) (Licensing) Rules.

2. Application and interpretation

These Rules apply with respect to every licence issued under the Forest Rules for the cutting and taking of the wood of the tree known as Mulanje Cedar (*Widdringtonia cuppresoides*) in and from Mulanje Mountain Forest Reserve.

3. Issue of licences

Licences shall be issued by the Director of Forestry only.

4. Validity of licences

Licences shall be valid for the period from 1st April to 31st October in the same year, both dates inclusive.

5. Conditions to be included in licences

All licences shall be subject to conditions specified in the Schedule to these Rules.

6. Restrictions on licences removal

Licences shall not authorize—

- (a) the felling of any other tree species;
- (b) the cutting or taking of healthy Mulanje Cedar trees;
- (c) the cutting or taking of any timber outside the area specified in the licence; and
- (d) the cutting or taking of any quantity of timber greater than the volume determined in accordance with rule 7 and in respect of which the licensee shall have paid the appropriate fee.

7. Determination of volume

(1) After felling, the volume of every tree to be included in a licence shall be determined by a forestry officer who shall compute the volume of saw logs realized from the trees felled as selected by the licensee using the Mulanje Cedar tables.

(2) From the volume of a tree as determined in accordance with sub-rule (1), the forestry officer shall deduct such amount as he estimates to be the volume of any decayed wood and wood which cannot be sawn into planks.

8. Timber to be marked before removal

No timber shall be removed from the area specified in the licence until after such timber has been marked with the official stamp of the Department of Forestry.

SCHEDULE reg. 5

1. No more than two pitsaws nor more than four persons working in pairs may at any time be employed in cutting in the licensed area.

2. The licensee shall permit a forestry officer to mark all timber to which the licence relates before removal of such timber from the licensed area.

3. The licensee shall remove or cause to be removed from the Reserve, on or before 31st October in the year in which the licence is issued, all timber to which the licence relates and any timber not so removed shall become the property of the Government.

4. The licensee shall be required to adequately fill in or cause to be filled in all pits dug by him or on his behalf and remove all benches in the licensed area.

5. The licensee undertakes that neither he nor his employees shall reside in the Reserve except at such place within the licensed area as shall have been approved for the purpose by a forestry officer.

6. The licensee undertakes that neither her nor his employees shall light any fire in the Reserve except one fire to be attended to all times and to be used exclusively for domestic purposes at the place approved under condition 5.

7. The licensee accepts liability to compensate the Government for any damage, whether caused by fire or otherwise, occasioned by any negligent or unlawful act or omission on his part or on the part of any of his employees.

8. The licensee undertakes that he and his employees shall take all reasonable steps to avert and, if possible, extinguish any unattended fire, howsoever caused within, or in the proximity of, the licensed area, even if not called upon to assist for the purpose by a forestry officer under rule 7 of the Forest Rules.

9. The licensee shall provide such further information as the forestry officer may require.

FORESTRY (PROHIBITED FOREST AREAS) ORDER

under s. 26

G.N. 15/2001

1. Citation

This Order may be cited as the Forestry (Protected Forest Areas) Order.

2. Declaration of Protected Forest

The areas listed in the Schedule are declared to be protected forest areas.

SCHEDULE

PROTECTED FOREST AREAS

1. Kongwe Hills (Mangochi)

2. Michiru Hills (Blantyre — along Blantyre–Zalewa road)