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# SUPPLEMENT TO THE SWAZILAND GOVERNMENT GAZETTE

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VOL. XXIII]

MBABANE, Friday, August 9th., 1985

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## CONTENTS

No.

Page

### PART C — LEGAL NOTICES

- |     |   |    |
|-----|---|----|
| 90. | Appointment of Councillors to the Town Council of Manzini ..... | S1 |
| 91. | The Improvement and Prohibition Notices Regulations, 1985 ..... | S2 |

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PUBLISHED BY AUTHORITY

THE URBAN GOVERNMENT ACT, 1969

(Act No. 8 of 1969)

APPOINTMENT OF COUNCILLORS TO THE TOWN COUNCIL  
OF MANZINI

(Under Section 6)

In exercise of the powers conferred by section 6 of the Urban Government Act, 1969, the Minister for Interior and Immigration hereby appoints the following persons—

Mr. P.M. Mthimkhulu

Mr. N.D. Ntiwane

Mr. P.M. Ngcobo

Mr. L.S. Dlamini

Mr. J.R. Bond

Mr. W.N. Dlamini

Mr. A.N.N. Maseko

Mr. N.M. Shabangu

Mr. R. Dlamini

Mr. Mordecai Khumalo

Mr. Fred Oswin

Mr. R. Maber

Mr. S.S. Mokgokong

Mr. J. Mabila

Mr. E.J. Mavuso — Ex-officio

to be councillors to the Town Council, Manzini with effect from the 1st June, 1985 to 31st May, 1986.

V.N. DLAMINI  
*Principal Secretary*

MBABANE,  
30th July, 1985.

## LEGAL NOTICE NO. 91 OF 1985

THE FACTORIES, MACHINERY AND CONSTRUCTION WORKS ACT,  
1972

(Act No. 17 of 1972)

## THE IMPROVEMENT AND PROHIBITION NOTICES REGULATIONS, 1985

(Under Section 31)

In exercise of the powers conferred by section 31 of the Factories, Machinery and Construction Works Act, 1972 the Minister for Labour and Public Service hereby makes the following Regulations —

*Citation and commencement.*

1. These Regulations may be cited as the Improvement and Prohibition Notices Regulations, 1985 shall be read as one with the Factories, Machinery and Construction Works Act, 1972 (hereinafter called the "principal Act") and shall come into force on the..... 1985.

*Interpretation.*

2. In these Regulations, unless the context otherwise requires —

"Article" means any plant or component thereof;

"building regulations" means regulations under section 37 of the Building Act, 1968;

"code" means —

(a) the latest edition of, or latest amendment to, the rules regulations or other form of code approved by the Commissioner in writing; or

(b) standard specification;

"improvement notice" means the notice issued under Regulation 3;

"prohibition notice" means the notice issued under Regulation 4;

"substance" means any natural or artificial substance intended for use at work.

*Improvement notice.*

3. (1) If an inspector is of the opinion that a person is contravening or is likely to contravene these regulations or any other health and safety regulations made under section 31 of the principal Act, he may issue him with an improvement notice in accordance with Form A in the Schedule hereto.

(2) A notice issued under subregulation (1) shall amongst other things —

(a) state the factors giving rise to the inspectors opinion;

(b) specify the regulation or regulations being contravened or likely to be contravened;

(c) order the person to remedy the contravention or to prevent a likely contravention within a specified period;

(d) state the possible measures the person could take to remedy the contravention or to prevent a likely contravention as far as possible by reference to an approved code; and

- (e) state the time within which the person could appeal against the issue of the notice.

*Prohibition notice.*

4. (1) If an inspector is of the opinion that a person is undertaking or is about to undertake activities which involve or are likely to involve a risk of serious bodily injury in contravention of these regulations or any other health and safety regulations made under section 31 of the principal Act, he may issue him with a prohibition notice in accordance with Form B of the Schedule hereto.

(2) A notice issued under subregulation (1) shall amongst other things —

- (a) state the factors giving rise to the inspectors opinion;
- (b) specify the regulation or regulations being contravened or likely to be contravened;
- (c) order the person to cease the activities forthwith and not to resume them until the risk or likely risk of bodily injury has been removed;
- (d) state the possible measures the person could take to prevent the risk or likely risk of bodily injury as far as possible by reference to an approved code; and
- (e) state the time within which the person could appeal against the issue of the notice.

*Measures relative with a building.*

5. (1) If relating to a building, remedial measures specified by an inspector under Regulations 3 or 4 shall not be more onerous than those necessary for conformity with relevant operating building regulations unless the remedial measures required demand more onerous requirements than those prescribed by the relevant operating building regulations.

(2) The inspector shall consult the Swaziland Fire and Emergency Service before stipulating remedial measures concerned with means of escape from a fire under Regulations 3 or 4.

*Power to withdraw notice or extend specified period.*

6. Where the inspector has served an improvement or prohibition notice which does not have immediate effect, he may—

- (a) withdraw the notice anytime before the commencement of the specified period; and
- (b) extend the specified period if there is no appeal pending against the notice.

*Appeal against improvement or prohibition notice.*

7. (1) A person who has been served with a notice under Regulation 3 or 4 may appeal to the Commissioner against the issue of the notice within 28 days of receipt thereof and at the same time state the grounds of appeal.

(2) After hearing both parties to an appeal under subregulation (1) the Commissioner may withdraw the notice or confirm it with or without modifications.

(3) An appeal against a notice issued under Regulations 3 or 4 shall have the effect of suspending the operation of the notice until the appeal is disposed of or withdrawn save that in the case of a prohibition notice this will only occur at the discretion of the Commissioner on application by the appellant.

*Power to destroy or neutralise a substance which may cause imminent bodily injury.*

8. (1) The inspector may remove and destroy or neutralise any article or substance he reasonably believes may cause imminent serious bodily injury in any premises he has authority to enter.

(2) Before destroying or neutralising an article or substance under subregulation (1), the inspector shall take and mark a sample thereof if practicable and give it to a responsible person in the premises.

(3) After destroying or neutralising an article or substance under subregulation (1), the inspector shall prepare a report and—

- (a) give a signed copy thereof to a responsible person in the premises;
- (b) where possible, serve the owner or occupier of the premises with a signed copy thereof if the owner or occupier is different from the person under paragraph (a).

*Offences and penalties.*

9. (1) A person who contravenes or fails to comply with an improvement notice issued against him shall be guilty of an offence and liable on conviction to a maximum fine of E2500.00 or in default thereof to one year imprisonment or both.

(2) A person who contravenes or fails to comply with a prohibition notice issued against him shall be guilty of an offence and liable on conviction to a maximum fine of E5000.00 or in default thereof to two years imprisonment or both.

## SCHEDULE

*Form A*

### IMPROVEMENT NOTICE

DEPARTMENT OF LABOUR

FACTORIES, MACHINERY & CONSTRUCTION WORKS ACT, 1972

Name: TO: .....

Address: .....

(a) Delete as necessary (a) Trading as .....

(b) .....

(b) Inspector's one of (c) .....

(c) Inspector's of (d) .....  
official designation

(d) Official address Tel. No. ....  
hereby give you notice that I am of the opinion that the following activities, namely:-

which are (a) being carried on by you/about to be carried on by you/under your control

(e) Location of activity at

(e) involve, or will involve a risk/an imminent risk, of serious bodily injury. I am further of the opinion that the said matters involve contraventions of the following statutory provisions:-

because

the following measures could be taken to remedy the contraventions

and I hereby direct that the said activities shall not be carried on by you or under your control (a) immediately/after

(f) Date

(f) unless the said contraventions and matters included in the Schedule, which forms part of this notice, have been remedied.

Signature.....Date.....  
being an inspector appointed by an instrument in writing made pursuant to Section 7 of the principal Act and entitled to issue this Notice.

#### NOTES:

1. Failure to comply with a notice is an offence under Regulation 9 of these regulations.
2. An Inspector has power to withdraw a notice or to extend the period specified in the notice, before the end of the period specified in it. You should apply to the Inspector who has issued the notice if you wish him to consider this, but you must do so before the end of the period given. Such an application is **not** an appeal against this notice.

3. The issue of this Notice does not relieve you of any legal liability for failure to comply with any provision of this notice.

4. Your attention is drawn to the provision for appeal against the notice to the Commissioner of Labour. Details of the method of making an appeal are given below.

- (a) Appeal can be entered against this notice to the Commissioner of Labour within 28 days upon receipt of this notice. The appeal should be sent to:-

(b) The appeal must be commenced by sending a notice containing the following particulars in writing to the Commissioner of Labour —

- (1) The name of the appellant and his address for the service of documents;
- (2) The date of the notice or notices appealed against and the address of the premises or place concerned;
- (3) The name and address (as shown on the notice) of the respondent;
- (4) Particulars of the requirements or directions appealed against; and
- (5) The grounds of the appeal.

A form which may be used for appeal is attached.

- (c) Time limit for appeal.

A notice of appeal must be sent to the Commissioner of Labour within 28 days from the date of service on the appellant of the notice or notices appealed against, or within such further period as the inspector considers reasonable in a case where it is satisfied that it was not reasonably practicable for the notice of appeal to be presented within the period of 28 days. If posted the appeal should be sent by registered letter.

J.D. MNGOMEZULU  
*Principal Secretary*

MBABANE,  
31st July, 1985.

## SCHEDULE

*Form B*

### PROHIBITION NOTICE

DEPARTMENT OF LABOUR,  
FACILITIES, MACHINERY & CONSTRUCTION WORKS ACT, 1972

Name: .....

Address: .....

(a) Delete as necessary (a) Trading as .....

(b) Inspector's one or (b) .....  
(full name) (c) .....

(c) Inspector's of (d) .....  
(official designation) .....

(d) Official address: Tel. No. ....  
hereby give you notice that I am of the opinion that the  
following activities namely:-

.....  
.....  
.....  
which are (a) being carried on by you/about to be  
carried on by you/under your control

(e) Location of activity (e) .....  
at .....  
involve, or will involve a risk/an imminent risk, or  
serious bodily injury.  
I am further of the opinion that the said matters  
involve contraventions of the following statutory  
provisions—

.....  
.....  
.....  
because .....

.....  
.....  
the following measures could be taken to remedy the  
contraventions .....



and I hereby direct that the said activities shall not be carried on by you or under your control (a) immediately/after

(f) Date

(f) .....  
unless the said contraventions and matter included in the Schedule, which forms part of this Notice, have been remedied.

Signature..... Date .....  
being an inspector appointed by an instrument in writing made pursuant to section 7 of the principal Act and entitled to issue this Notice.

#### NOTES:

1. Failure to comply with a notice is an offence under Regulation 9 of these regulations.
2. An Inspector has power to withdraw a notice or to extend the period specified in the notice, before the end of the period specified in it. You should apply to the Inspector who has issued the notice if you wish him to consider this, but you must do so before the end of the period given. Such an application is not an appeal against this notice.
3. The issue of this Notice does not relieve you of any legal liability for failure to comply with any provision of this notice.
4. Your attention is drawn to the provision for appeal against the notice to the Commissioner of Labour. Details of the method of making an appeal are given below.
  - (a) Appeal can be entered against this notice to the Commissioner of Labour within 28 days upon receipt of this Notice. The appeal should be sent to:-  
.....
  - (b) The appeal must be commenced by sending a notice containing the following particulars in writing to the Commissioner of Labour —
    - (1) The name of the appellant and his address for the service of documents;
    - (2) The date of the notice or notices appealed against and the address of the premises or place concerned;
    - (3) The name and the address (as shown on the notice) of the respondent;
    - (4) Particulars of the requirements or directions appealed against; and
    - (5) The grounds of the appeal.

A form which may be used for appeal is attached.

- (c) Time limit for appeal.

A notice of appeal must be sent to the Commissioner of Labour within 28 days from the date of service on the appellant of the notice or notices appealed against, or within such further period as the inspector considers reasonable in a case where it is satisfied that it was not reasonably practicable for the notice of appeal to be presented within the period of 28 days. If posted the appeal should be sent by registered letter.

- (d) The entering of an appeal does not have the effect of suspending this notice. Application can be made for suspension of the notice to the Commissioner of Labour but the notice continues in force until the Commissioner of Labour otherwise directs. An application for suspension of the notice must be in writing and must set out:-

- (a) The case number of the appeal, if known, or particulars sufficient to identify it and;
- (b) The grounds on which the application is made. The application may accompany the appeal.

# APPEAL AGAINST A PROHIBITION/IMPROVEMENT NOTICE

Department of Labour,  
Factories, Machinery and Construction Works Act, 1972  
To: The Commissioner of Labour,  
P.O. Box 198,  
MBABANE.

Applicant's Name and address: .....

An appeal is lodged against Prohibition/Improvement Notice No.....

dated.....issued by .....

.....an Assistant Inspector/

Inspector of Factories of (address).....

in respect of premises named (full address).....

The Particulars of the requirements or directions appealed against are:-

The grounds for the appeal are:-.....

(Struck which ever is inapplicable) It is requested that

- (a) The notice be set aside
- (b) The Notice be modified in accordance with the following

- (c) The time allowed by the Inspector/Assistant Inspector  
be extended to

Other supporting information

Signed: Title: