

# SUPPLEMENT TO THE SWAZILAND GOVERNMENT GAZETTE

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# PART A

S1

## THE SWAZILAND SEED BOARD BILL, 1988

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(Bill No. 7 of 1988)

(To be presented by the Minister for Agriculture and Cooperatives)

### MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to establish the Swaziland Seed Board to organize and develop a system of production, distribution and marketing of seeds and to provide for matters incidental thereto.

D.P. MAKANZA  
*Attorney—General*

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### A BILL entitled

An Act to establish the Swaziland Seed Board and to provide for matters incidental thereto.

### ARRANGEMENT OF SECTIONS

#### Section

1. Short title and commencement.
2. Interpretation.
3. Establishment of Seed Board.
4. Membership.
5. Disqualification of members.
6. Vacancies not to invalidate proceedings.
7. Meetings and procedure.
8. Allowance for members.
9. Non-disclosure of information.
10. Chief Executive Officer.
11. Functions of the Board.
12. Powers of the Board.
13. Levy.
14. General reserve fund.
15. Transfer and vesting of assets and liabilities.
16. Pending proceedings.

19. Protection from personal liability.
20. Exemption from duties and taxes.
21. Offences and penalties.
22. Regulations.

*Short title and commencement.*

1. This Act may be cited as the Swaziland Seed Board Act, 1988 and shall come into operation on such date as the Minister may, by notice in Gazette appoint.

*Interpretation.*

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

“agent” means a person, appointed by the Board to handle specific functions under section 12;

“auditor” means the person appointed as such under section 18;

“basic seed” means the seed produced under the responsibility of a breeder or his authorized agent and is intended for the production of certified seed;

“Board” means the Swaziland Seed Board establishment under section 3;

“breeders’ seed” means the seed grown for one or more generations and is directly produced or controlled by the originating institution or plant breeder; it provides the source for the increase of basic seed;

“certified seed” means any seed of the progeny of breeder, or basic seed so handled as to maintain satisfactory genetic purity and identity, and which has been approved by the certifying agency;

“chairman” means the Chairman of the Board or the Acting Chairman;

“Chief Executive Officer” means the person appointed under section 10;

“financial year” means any period of twelve months commencing with the first day of April;

“Minister” means the Minister for Agriculture and Cooperatives;

“member” means a member of the Board;

“seed” means agricultural seed to be produced, marketed or imported under the authority of the Board;

“seed distributor” means any person engaged in the distribution of seed for business purposes;

“seed grower” means any person who produces agricultural seed for business purposes;

“seed user” means any person who uses seed for growing purposes.

*Establishment of Swaziland Seed Board.*

3. There is hereby established the Swaziland Seed Board which shall be a body corporate with perpetual succession and a seal, capable of suing and being sued in its corporate name, capable of acquiring and alienating movable and immovable property and of performing such other acts as a body corporate may lawfully perform.

*Membership of Board.*

4. (1) The Board shall consist of the following members all of whom shall be appointed by the Minister —

- (a) (i) a chairman;
- (ii) two representatives of the Ministry responsible for agriculture;
- (iii) a representative of commercial seed distributors;
- (iv) a representative of the seed growers; and
- (v) a representative of seed users.
- (b) One other person with such qualifications and who shall represent such interests as the Minister may determine.

(2) Any member appointed under sub-section (1) shall submit to the Minister the name of any other person to be an alternate member of the Board.

(3) A member of the Board who is not a public officer shall hold office for such period not exceeding three years and on such terms and conditions as the Minister may determine and shall, subject to section 5, be eligible for re-appointment.

(4) Notwithstanding sub-section (3), a member or alternate member shall cease to hold office as such:—

- (a) when the Minister receives his written resignation;
- (b) if he is absent from three consecutive meetings of the Board without leave of the Chairman or Acting Chairman;
- (c) if he becomes incapacitated by reason of prolonged physical illness.

*Disqualification of members.*

5. No person shall be appointed a member or alternate member or remain a member or alternate member if he —

- (a) is under twenty one years of age;
- (b) has been convicted of a criminal offence;
- (c) has been pronounced insane by a competent authority;
- (d) becomes insolvent under any law relating to insolvency or bankruptcy.

*Vacancies not to invalidate proceedings.*

6. (1) The Board members may, subject to the quorum, act notwithstanding any vacancy in the membership thereof.

(2) No act or other proceedings of the Board members shall be invalid by reason only that there was some defect in the appointment of any person as a member of the Board.

*Meetings and procedure.*

7. (1) The Board shall meet at least once every four months and the Secretary of the Board shall issue notices of meetings at least fourteen days in advance.

(2) The Chairman shall convene and preside at all meetings of the Board.

(4) Five members of the Board shall constitute a quorum.

(5) All decisions of the Board shall be taken by a majority of votes of the members present and voting and in the event of an equality of votes, the Chairman, shall have a casting vote in addition to his deliberate vote.

(6) Subject to the Act, the Board may regulate its own proceedings.

*Allowance of members.*

8. A member of the Board who is not a public officer shall receive from time to time such allowances as the Board may determine.

*Non-disclosure of information.*

9. A member or an employee of the Board who discloses a decision of, or any other information concerning the Board, otherwise than in connection with its administration or with its approval or as required by a court shall be guilty of an offence.

*Chief Executive Officer.*

10. The Board shall appoint a Chief Executive Officer who shall be Secretary to the Board and who shall —

- (a) hold office for such period and subject to such conditions as the Board may determine; and
- (b) subject to the directions of the Board, be charged with the management of the business of the Board and its administration and organization and with the appointment, discipline and control of the staff of the Board.

*Functions of the Board.*

11. The Board shall —

- (a) organize and develop a system of production, distribution and marketing of seeds;
- (b) ensure that the quality of the seed is of a standard suitable for production distribution and marketing;
- (c) prescribe the kinds, grades and quantities of seeds to be produced distributed and marketed;
- (d) negotiate and consult with any person for the purposes of facilitating a stable production, distribution and marketing of seed.

*Powers of the Board.*

12. In exercise of its functions under section 11, the Board shall have powers to —

- (a) open and operate a banking account with any bank in Swaziland;
- (b) enter into a contract with any person or body in connexion with the production, distribution and marketing of seed and for any other purpose it may deem fit;
- (c) acquire by purchase, lease, exchange, grant or otherwise movable or immovable property:

- (d) borrow such money as it may require for the exercise of its functions under this Act and mortgage or otherwise charge its property subject to such terms and conditions as the Minister may determine;
- (e) grant loans to seed growers for seed production purposes upon such terms and conditions as it may determine;
- (f) determine the kind of crop varieties and quantities of seed to be produced;
- (g) import breeder's seed and basic seed for multiplication purposes and certified seed for distribution to farmers in Swaziland;
- (h) determine the purchase and selling prices of seed;
- (i) manage any seed processing plant and storage facilities and seed production farmers it owns;
- (j) employ advisory staff to carry out seed development programmes;
- (k) appoint an agent to exercise on its behalf any function that it may delegate to him as it deems necessary;
- (l) determine the terms of service of the staff of the Board and to fix their salaries;
- (m) perform all such acts as are necessary for or incidental to the carrying out of its objects and the performance of its functions under this Act.

*Levy.*

13. (1) The Minister may, on the recommendation of the Board and by notice in the Gazette, impose a levy on imported seed.

(2) A levy imposed under sub-section (1) shall be paid to the Board in the manner specified in the Notice.

(3) Any person who fails to pay the levy imposed under sub-section (1) shall be guilty of an offence.

*General reserve fund.*

14. (1) The Board shall establish and maintain a general reserve fund into which shall be paid any net profit earned by the Board.

(2) The general reserve fund shall be applied by the Board in making good any loss or deficiency, which may occur in any of the transactions of the Board.

(3) The Board may, subject to such conditions as may be determined, invest such part of the monies in the reserve fund as are not required for the purpose of its business.

*Transfer and vesting of assets and liabilities.*

15. (1) Upon commencement of this Act, there shall be transferred to and vested in the Board, by virtue of this section and without further assurance, assets and liabilities of the Seed Multiplication Project.

(2) From the commencement date the Board shall in respect of the assets and liabilities so transferred and vested by subsection (1), have all the rights and be subject to all the liabilities which the Seed Multiplication Project has or is subject to, immediately

(3) In the case of property deemed to have been transferred to and vested in the Board pursuant to this Act, in respect of the transfer of which any law provides for registration, it shall be the duty of the proper officer of the appropriate registration authority, upon written request made by or on behalf of the Board, to make such entries in the appropriate register as required by law, to give effect to such transfer and, where appropriate, to issue to the Board a certificate of title in respect of such property or to make the necessary amendments to the register, as the case may be, and to make any consequential endorsements on the deeds relating to the title, right or obligation concerned.

(4) On or after the commencement date, every contract entered into by or on behalf of the Seed Multiplication Project (whether in writing or not and whether or not of such a nature that rights and liabilities thereunder can be assigned by the Board) shall, as the Minister may determine and notify to the other party or parties thereto, have effect as if made by or on behalf of the Board as if references therein to the Seed Multiplication Project or any officer or authority there substituted in relation to anything falling to be done on or after the commencement date, are references to the Board and to the corresponding officer or authority of the Board.

*Pending proceedings.*

16. Any legal proceedings by or against the Seed Multiplication Project which are pending on the commencement date shall be continued by or against the Board and a certificate of the Minister to the effect that the Board is, for the purpose of such proceedings, the proper body to continue such proceedings or to defend them, shall in any proceedings before any court be conclusive to that effect.

*Powers of the Minister.*

17. (1) The Minister may issue to the Board members such directions as he may deem fit in terms of this Act.

(2) The Minister may summarily terminate the appointment of any member of the Board who has become disqualified on any of the grounds set out in section 5, or for misconduct, inefficiency in carrying out or failure to carry out his duties.

*Accounts and Audit.*

18. (1) The Board shall cause to be kept books of account in proper form as well as all necessary records in connection therewith.

(2) The accounts of the Board shall be examined, audited and reported on annually by an auditor appointed by it and approved by the Minister.

(3) The Board shall at the end of each financial year report to the Minister in such form as the Minister may direct on the performance by it of its functions.

(4) The Board shall within three months after the accounts of the Board for any financial year have been audited, submit a copy of the statement of accounts prepared in respect of such year to the Minister, together with a copy of any report made by the auditor on the accounts.

(5) The Minister shall lay before Parliament copies of all audited accounts and reports within six months after he has received them.

*Protection from personal liability.*

19. No matter or thing done or omitted to be done by any member of the Board, shall, if the matter or thing is done or omitted to be done bona fide in the course of the operations of the Board, render such person, or any other person acting under his directions, personally liable to any action, claim or demand.

*Exemption from duties and taxation.*

20. (1) The Board shall be exempted from payment of stamp and transfer duties.

(2) The Board shall be exempted from any taxes and trading licence fees which may be imposed by any law.

*Offences and penalties.*

21. A person who fails to comply with the provisions of sections 9 and 13 shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred Emalangi or imprisonment for three months.

*Regulations.*

22. The Minister may, after consultation with the Board, make regulations, for —

- (a) prescribing the method or methods to be followed by growers for the growing of seed for multiplication purposes;
- (b) prohibiting the importation of seeds;
- (c) any other matter for giving effect to the purposes of this Act.

THE SEEDS AND PLANT VARIETIES BILL, 1988

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(Bill No. 8 of 1988)

(To be presented by the Minister for Agriculture and Cooperatives)

MEMORANDUM OF OBJECT AND REASONS

The object of this Bill is to provide for —

- (a) the registration of establishments where seeds for the purpose of sowing may be cleaned and packed or offered for sale;
- (b) the conditions under which seeds may be sold;
- (c) the establishment of seed certification schemes for maintaining the quality of certain seeds;
- (d) the recognition of certain varieties of plants;
- (e) the establishment of an official seed testing station;
- (f) the requirements relating to seeds, packing material, seals and labels;
- (g) the control of the importation and exportation of seeds;
- (h) matters incidental to the foregoing.

D.P. MAKANZA  
*Attorney—General*

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A BILL

for

An act to provide for the control, sale, importation and exportation of seeds and matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland.

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

Section.

- 1. Short title and commencement.
- 2. Interpretation.
- 3. Application of Act.
- 4. Appointment of Registrar of Seeds.

PART II

REGISTRATION OF SEED CLEANERS, SELLERS, IMPORTERS AND EXPORTERS

5. Register of establishments.
6. Application for registration.
7. Terms of registration.
8. Renewal of Registration.
9. Requirements relating to the Registration of Establishments.
10. Termination of Registration.
11. Display and return of Certificates.
12. Exemption from Registration.
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14. Requirements relating to the sale of seed.

PART III

PROVISIONS FOR THE RECOGNITION OF CERTAIN VARIETIES OF PLANTS

15. Provision for the recognition of a variety.
16. Application for the recognition of a variety.
17. Requirements for the recognition of a variety.
18. Consideration and examination of applications.
19. Examination of varieties by others than the Minister.
20. Recognition of a variety.
21. Variety list.

PART IV

CERTIFICATION SCHEMES

22. Establishment of Certification Schemes.
23. Provision of scheme.
24. Power to enter premises, carry out inspections, take samples for analysis and seize substances or articles.

PART V

ESTABLISHMENT OF AN OFFICIAL SEED TESTING STATION

25. Establishment of an Official Seed Testing Station.

PART VI

REQUIREMENTS RELATING TO SEEDS PACKING MATERIAL, SEALS AND LABELS

PART VII

IMPORTATION AND EXPORTATION OF SEED

27. Importation of Seed.
28. Exportation of Seed.

PART VIII

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29. Preservation, inspection and proof of documents.
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31. Appeal against decision or action of the Registrar.
32. Offences and penalties.

PART I

PRELIMINARY

*Short title and commencement.*

1. (1) This Act may be cited as the Seeds and Plant varieties Act, 1988.  
(2) This Act shall come into operation on such date as the Minister may appoint by notice in the Gazette and the Minister may appoint different dates for the coming into operation of different Parts or different provisions of the Act.

*Interpretation.*

2. In this Act, unless the context otherwise requires —  
“advertisement” means any statement, picture, design or device —
  - (a) published in any newspaper or other public print;
  - (b) contained in any handbill, circular or any other matter which is distributed to the members of the public; or
  - (c) brought to the notice of the public through radio or television or any other manner.“Board” means the Appeals Board referred to in section 31;  
“business” means the business of —
  - (a) cleaning, grading, prepacking and distribution of seed carried out in a registered establishment in terms of this Act;
  - (b) the retail sale of seed;“Certification Scheme” means a scheme established under Part IV of this Act;  
“certified seed” means seed produced and controlled under the provisions of a scheme referred to in Part IV;  
“cleaning” means the treatment or processing of seed in order to improve the quality thereof;

- “denomination” means the generic name of a variety;
- “establishment” means any premises where a business is carried out and which have been registered in terms of this Act;
- “International Certificate” means an International Seed Testing Certificate issued under the auspices of the International Seed Testing Association;
- “kind” means all related genera, species and sub-species of a plant which are known by the same common name;
- “Minister” means the Minister responsible for Agriculture;
- “Official Seed Testing Station” means the seed testing station referred to in Part V and where seed is tested in respect of any physical or biological property;
- “owner or occupier” means, in relation to an establishment, the person who is the owner or lessee of the establishment or who has otherwise the right of management thereof;
- “pack” means to pack for sale;
- “prescribed seed” means any seed to which this Act applies by virtue of a regulation made under section 3;
- “Registrar” means the Registrar of seeds appointed under section 4;
- “regulation” means a regulation made under this Act;
- “seed” means that part of a plant which is or is intended to be used for propagation and includes and seed, seedling, corn, cutting, bulb, bulbil, layer, marcott, root, runner, scion, set, split, stem, stock, stump, sucker or tuber so used or intended to be so used;
- “unit for certification” means any area of land registered under section 23 of this Act;
- “variety list” means the list kept in terms of section 21;
- “variety” means an assemblage of cultivated individuals which are distinguished by any character (morphological, physiological, cytological, chemical or others) significant for the purpose of agriculture, horticulture or forestry, and which when reproduced (sexually or asexually) retain their distinguishing characters.

#### *Application of Act.*

3. The provisions of this Act shall apply to any seed which the Minister, by virtue of a notice in the Gazette, declares to be a prescribed seed for the purposes of this Act.

#### *Appointment of a Registrar of Seeds.*

4. There shall be appointed to the public service a Registrar of Seeds who shall be responsible for the administration of this Act.

## PART II

### REGISTRATION OF SEED CLEANERS, SELLERS, IMPORTERS AND EXPORTERS

#### *Register of Establishments.*

5. The Registrar shall keep, or cause to be kept, a Register of Establishments registered in terms of this Act in which shall be entered —

- (b) the name under which such establishment is registered;
- (c) the kind of business conducted at such establishment;
- (d) such other particulars as may be prescribed.

*Application for registration.*

6. (1) A person who —

- (a) is the owner or occupier of an establishment under this Act shall within three months of the coming into operation of this Act, apply in writing to the Registrar for the registration of the establishment;
- (b) intends to start an establishment under this Act shall apply in writing to the Registrar for registration of such an establishment.

(2) All applications made under subsection (1) shall be made in the prescribed form and be accompanied by the prescribed fee.

(3) If the Registrar, after considering an application under subsections (1) and (2), is satisfied that the establishment may be registered in respect of the business, he shall register the establishment and —

- (a) enter the particulars in the register kept for the purpose; and
- (b) issue a certificate of registration to the applicant.

4. If the Registrar refuses an application for registration, he shall inform the applicant, in writing, of his decision and of the grounds on which it is based.

*Terms of registration.*

7. The registration of an establishment shall be valid for a period of twelve months from the date of issue of a certificate and shall be renewable.

*Renewal of registration.*

8. (1) A person to whom a certificate of registration has been issued under section 6(3) may apply for a renewal of the registration before the date of expiry thereof.

(2) An application for the renewal of a certificate of registration shall be submitted to the Registrar in the prescribed form and shall be accompanied by the prescribed fee.

(3) The Registrar may grant an application for the renewal if he is satisfied that —

- (a) the establishment conforms to the requirements prescribed in section 9;
- (b) the records regarding the seed handled at the establishment are being kept in the prescribed manner.

(4) If the Registrar grants an application for renewal he shall —

- (a) notify the applicant accordingly in writing and issue a fresh certificate;
- (b) enter the appropriate particulars in the register.

(5) If the Registrar refuses the application for renewal, he shall inform the applicant in writing of his decision and the reasons therefor.

*Requirements relating to the registration of establishments.*

9. The Minister may, by regulation, set down requirements relating to the registration of establishments including —

- (a) the type of building in which the business is carried out;
- (b) the necessary facilities for the carrying out of the business;
- (c) the records to be kept at the establishment.

*Termination of registration.*

10. (1) The Registrar may, at any time, terminate the registration of an establishment if he is satisfied that any requirement under section 9 has not been complied with.

(2) In case of termination of a registration, the Registrar shall inform, in writing, the person to whom the registration was granted of his decision and the reasons therefor.

*Display and return of certificates.*

11. (1) The owner or occupier of an establishment shall display the certificate of registration, at all times, in a prominent position.

(2) Where the registration of an establishment is terminated under section 10 or has not been renewed under section 8, the owner or occupier of the establishment shall return the certificate of registration to the Registrar.

*Exemption from registration.*

12. (1) Premises where only prepacked seed which has been prepacked at an establishment which is registered under this Act, or has been imported in compliance with section 27, is sold in the original unopened container, shall be exempt from registration.

(2) Any premises, the owner or occupier of which participates in an official scheme under Part IV of this Act, and all the seeds grown or stored at the premises and which are sold exclusively to the multiplication organization referred to in the scheme shall be exempted from registration.

*Prohibition of selling or conducting business.*

13. A person who sells or conducts any business from the premises of an establishment which is not registered or is exempt from registration under this Act, shall be guilty of an offence.

*Requirements relating to the sale of seed.*

14. (1) No prescribed seed shall be sold for the purpose of cultivation unless it —

- (a) is of a variety which is entered in the variety list;
- (b) complies with the requirements prescribed in section 26 and has been tested for germination within a period of six months before it is intended to be sold;
- (c) is either prepacked or is packed in containers which comply with the prescribed requirements and are sealed and marked or labelled in the prescri-

## PART III

## PROVISIONS FOR THE RECOGNITION OF CERTAIN VARIETIES OF PLANTS

*Provision for the recognition of a variety.*

15. (1) The Minister may, by notice in the Gazette, prescribe a variety list in respect of such plants as he may determine.

(2) Only varieties of plants that are listed in the variety list may be sold.

*Application for the recognition of a variety.*

16. (1) An application for the recognition of a variety for inclusion in the variety list may be made by any person.

(2) Such an application shall —

- (a) be made to the Registrar in the forms and manner prescribed;
- (b) be accompanied by the prescribed registration fee.

*Requirements for the recognition of a variety.*

17. (1) A variety may be recognized if —

- (a) it is, by reason of any important characteristic, clearly distinguishable from any other variety of the same kind of plant of which the existence is a matter of common knowledge;
- (b) it is sufficiently homogeneous having regard to the particular features of sexual reproduction or vegetative propagation;
- (c) it is stable with regard to its essential characteristics and remains true to the description thereof after repeated reproduction or propagation, or where the breeder has defined a particular cycle of reproduction or multiplication, at the end of each such cycle;
- (d) it is identified by a denomination which complies with the provisions of subsection (3); and
- (e) it has sufficient merit in at least one agronomic character.

(2) A characteristic referred to in subsection (1) (a) may be of a morphological, physiological or any other nature and shall be such that it is clearly recognizable and can be described according to internationally accepted standards.

(3) The denomination of a variety for which an application for recognition is being considered shall be proposed by the applicant and shall —

- (a) be suitable to identify a variety;
- (b) not be such as to be liable to mislead or to lead to confusion concerning the characteristics, value or identity of the variety;
- (c) be different from any other denomination which designates existing varieties of the same or closely related kinds of plants;
- (d) comply with such further requirements as the Registrar may determine.

*Consideration and examination of applications.*

18. (1) The Minister shall appoint a committee, whose chairman shall be the Registrar, to consider and examine applications for the recognition of varieties of plants.

(2) The committee shall consider every application for the recognition of a variety, and all documents and any other proof submitted to them, in order to ascertain whether the application complies with the requirements of this Act.

(3) The committee shall —

- (a) undertake such tests as it may deem necessary; or
- (b) designate other persons or institutions to carry out such tests; or
- (c) use the results of tests undertaken with that variety and obtained by the committee in terms of an agreement referred to in section 19,

in order to determine whether such a variety may be recognized.

(4) A person whose application is being considered shall, for the purpose of any tests, furnish the Committee with such —

- (a) quantity of seed as it may require;
- (b) information in connection with the variety as it may require.

5. After consultation with the Board, the Minister shall, by notice in the Gazette, prescribe the length of the period during which varieties of crops shall be tested.

*Examination of varieties by others than the Minister.*

19. The Minister may authorise the Committee examining and considering an application for the recognition of a variety to use results of tests conducted outside the country if he is satisfied that such tests have been conducted in such a manner and under such circumstances that the results form a reliable basis on which to determine whether a variety may be recognized.

*Recognition of a variety.*

20. (1) If the Committee, after considering an application under section 18 is of the opinion that —

- (a) the application conforms with the requirements of this Act; and
- (b) the variety complies with the requirements of section 17,

it shall authorise the Registrar to enter the variety in the variety list.

(2) The Registrar shall in respect of each variety which is recognized —

- (a) inform the applicant of such a decision;
- (b) enter the necessary particulars in the variety list.

*Variety list.*

21. (1) The Registrar shall keep a list in which shall be entered —

- (a) the denomination used in Swaziland for a variety on the date on which

(2) The variety list shall be published in the Gazette, at least, once a year and not later than the 1st July each year.

#### PART IV CERTIFICATION SCHEMES

##### *Establishment of certification schemes.*

22. (1) The Minister may, by notice in the Gazette, establish a scheme for the certification of seeds with the object of maintaining the quality of the seeds and of ensuring the usefulness for agricultural or industrial purposes of the products derived therefrom.

(2) Different schemes may be established for seeds of different kinds of plants and the requirements for different kinds and varieties of plants may differ.

(3) The Minister may recognize certification schemes in other countries to be of equal or higher standard than the certification schemes established under this Act and may, in such cases, recognize seed produced under such schemes as imported certified seed.

(4) The Minister may, at any time by notice in the Gazette, amend or revoke a scheme.

##### *Provision of a scheme.*

23. The Minister may, in a notice referred to under section 22 —

- (a) designate the Swaziland Seed Control to be the authority which shall exercise the powers, perform the functions and carry out the duties conferred upon, assigned to or imposed upon such an authority under a scheme;
- (b) provide that any person intending to participate in a scheme and any unit for certification shall be registered with the authority referred to in paragraph (a);
- (c) provide for the manner in which a person or a unit for certification shall be registered and the forms to be used for an application for registration;
- (d) prescribe the requirements for registration to be complied with by a person or unit for certification, the conditions under which such a person or unit shall be registered and the period of validity of such registration;
- (e) provide that, as from the date on which a person or a unit for certification is registered in terms of a scheme, the provisions of such a scheme shall be binding on such a person or unit;
- (f) provide for the manner in which and the control subject to which seed intended for certification under a scheme shall be produced and treated;
- (g) determine the manner in which and the times at which any inspection of units for certification or of seeds with reference to which the provisions of a scheme are applicable, shall be carried out, and the forms to be used in connection with such an inspection;
- (h) determine the requirements and standards of quality which seed shall comply with for certification in terms of a scheme;
- (i) determine the manner in which seed shall be certified, the form of a certificate in connection therewith and the circumstances under which such a

- (j) determine the manner in which certified seed shall be packed, marked, labelled, sealed, stored or distributed, and the specifications of the labels and seals to be used therefor;
- (k) determine the information which shall appear on the containers in which certified seed is packed, or on the labels affixed thereto;
- (l) determine the records to be kept and the information to be furnished by any person registered under a scheme;
- (m) determine the fees or charges payable to the authority designated under paragraph (a), by any person registered under a scheme;
- (n) confer on the authority the powers of inspection referred to in section 24;
- (o) provide that the provisions of section 31 shall, *mutatis mutandis*, apply with reference to any person who feels aggrieved by any decision or action taken in connection with a scheme by the authority;
- (p) provide generally for any other matter which, in the opinion of the Minister, is necessary or expedient in order to further or better achieve the objects of a scheme.

*Power to enter premises, carry out inspections, take samples for analysis and seize substances or articles.*

24. (1) An officer authorised under section 23 may at any reasonable time —

- (a) enter upon and inspect any place, premises, vehicle or receptacle in which there is or is suspected to be produced, processed, treated, graded, prepacked, marked, labelled, removed, transported or sold any seed in respect of which this Act or any scheme established under this Act applies;
- (b) inspect such seed and examine all books and documents which the person has reasonable grounds to suspect relate to such seed and demand an explanation of any record or entry therein;
- (c) inspect any operation or process carried out in or on such a place in connection with the production, processing, treatment, grading, prepacking, marking, labelling, removing, transporting or selling of any seed to which this Act or any scheme established under this Act applies and demand from the person in charge of such an operation or process any information or explanation regarding such an operation or process;
- (d) take samples of any seed used or suspected to be intended for use in the production, processing, grading, treatment, prepacking, marking, labelling, removing, transporting or selling;
- (e) seize any books, documents, and seed which may be used as evidence in connection with any offence under this Act and remove them from the premises, place, vehicle or receptacle or leave them on such place, premises, vehicle or receptacle after labelling or marking such seed, books or documents in such a manner as may be necessary.

(2) If an authorised officer has carried out an inspection in terms of subsection (1), he shall enter the particulars of the inspection and any decision or instruction on the prescribed form, submit a copy thereof to the person in charge of the place, premises, vehicle or receptacle in question.

- (3) Any sample taken under subsection (1) (d) shall —
- (a) consist of such quantity and subject to such conditions as the Registrar may determine.
  - (b) be taken in the presence of the owner or person in charge of such seed, or if such person is not available, in the presence of a witness, and the prescribed form shall be completed in respect thereof;
  - (c) be tested, examined or analysed by an official seed testing station as referred to in section 25, within a reasonable time, and the results of such tests, examinations or analyses shall be entered in the prescribed form.

#### PART V

### ESTABLISHMENT OF AN OFFICIAL SEED TESTING STATION

#### *Establishment of an official seed testing station.*

25. (1) The Minister shall, by notice in the Gazette, designate Swaziland Seed Control as the Official Seed Testing Station for the purposes of this Act.

(2) The Minister shall, by notice in the Gazette relating to the establishment of an Official Seed Testing Station —

- (a) designate an officer who shall perform the functions under this section;
- (b) determine for which kinds of seed the results of tests shall be binding under this Act;
- (c) determine the information to be supplied by the officer designated under paragraph (a) as a result of a test and prescribe the form to be used for reporting such results;
- (d) prescribe the test conditions under which such test shall be carried out;
- (e) prescribe the tolerances applicable to the test results;
- (f) determine the fees payable.

#### PART VI

### REQUIREMENTS RELATING TO SEED, PACKING MATERIAL, SEALS AND LABELS

#### *Requirements relating to seed, packing material, seals and labels.*

26. (1) No prescribed seed shall be offered for sale unless —
- (a) it is certified under a scheme referred to in section 22;
  - (b) it is recognized as imported certified seed under section 22(3);
  - (c) where it is not produced under any certification scheme, the Minister is satisfied that the standards applicable to the production and processing of such seed are of the same quality or better than those applied under section 23(j) and (k); or
  - (d) it complies with the requirements referred to in subsection (2).
- (2) The Minister may make regulations providing for —

- (a) the quality requirements that shall be applicable to different classes of prescribed seed;
- (b) the manner in which seed shall be packed, sealed and labelled;
- (c) the information that shall appear on seals and labels.

## PART VII

## IMPORTATION AND EXPORTATION OF SEED

*Importation of seed.*

27. (1) No person shall import into Swaziland any seed to which this Act applies unless the seed —

- (a) is of a variety entered in the variety list;
- (b) complies with the requirements prescribed in section 26;
- (c) is packed in a container which is sealed, marked or labelled in the prescribed manner with the prescribed information;
- (d) is imported through a prescribed port of entry;
- (e) is imported on an import permit issued by the Principal Secretary in accordance with the provisions of the Plant Control Act, 1981.

(2) Notwithstanding the provisions of part IV and part V of the Plant Control Act (1981), the Registrar may, in writing and on such conditions as he may determine, allow the importation of certain kinds of seed which do not comply with any of the requirements referred to in subsection (1) or prohibit the importation of seed which otherwise complies with the requirements of subsection (1) where he is satisfied that sufficient quantities of such seed have already been imported, or where the importation of such seed, in his opinion, is not necessary.

(3) A person importing a consignment of seed shall furnish the Registrar with the particulars the Registrar may require and such a consignment shall not be moved from the premises of the importer or offered for sale unless the Registrar has authorized in writing the importer to do so.

(4) The seed imported under subsection (1) and (2) may, at the discretion of the Registrar, be examined and sampled in accordance with section 24(3) before a decision under subsection (3) is taken.

(5) Consignments of seed which comply with the provisions of section 26(1) shall, unless the Registrar otherwise determines, be exempt from the provisions of subsection (3) and (4).

(6) Consignments of seed accompanied by an International Certificate shall be exempt from the provisions of subsection (4).

(7) If any consignment of seed to which this Act applies has been imported contrary to the provisions of this section, the Registrar may —

- (a) order that the consignment shall within such period as the Registrar may determine —
  - (i) be destroyed without compensation; or

*Exportation of seed.*

28. (1) No person shall export from Swaziland any seed intended for sowing unless he is in possession of written authority from the Registrar.

(2) Any person desiring to obtain such an authority shall apply to the Registrar in the prescribed form and shall pay the prescribed fee and the Registrar may grant or refuse the application.

(3) After receiving such an application, the Registrar may undertake such inspection of the seed as he may consider necessary and may take such samples in accordance with section 24(3) as he may consider necessary and have such samples tested at an official seed testing station.

PART VIII  
OTHER SECTIONS

*Preservation, inspection and proof of documents.*

29. (1) All documents lodged with the Registrar under this Act shall be preserved for the prescribed time.

(2) All documents referred to in subsection (1) which, in the opinion of the Registrar, may lie for inspection by the public, shall be open for inspection during office hours at the office of the Registrar and copies thereof shall, on request, be furnished to any person after payment of the prescribed fee.

(3) Where an application for the recognition of a variety or for registration of an establishment has been withdrawn or refused, the Registrar shall return all documents submitted in connection with the application to the applicant or where necessary destroy them after the prescribed period.

*Secrecy.*

30. (1) No person shall, except —

- (a) for the purpose of carrying out his duties under this Act;
- (b) for the purpose of legal proceedings under this Act or any other law; or
- (c) with the written permission of the Registrar,

disclose any information acquired by him in the carrying out of his duties which relates to seed matters.

*Appeal against decision or action of the Registrar.*

31. (1) There shall be an Appeals Board appointed by the Minister which shall consist of three members; one of whom shall be a specialist in the field concerned and the remaining members shall have a general knowledge of agriculture, and none of the members shall be party in the matter concerned.

(2) A person who is aggrieved by any decision or action taken by the Registrar under this Act may, within the period and in the Manner prescribed, appeal to the Board against such decision or action.

- (3) The Board may after investigation of the appeal —
- (a) confirm, set aside or vary any decision or action of the Registrar;
  - (b) order the Registrar to carry out the decision of the Board.
- (4) The decision of the Board shall be in writing, and copies thereof shall be furnished to the appellant, the Registrar and any other interested party.
- (5) A decision of the Board shall be final.

*Offences and penalties.*

32. Any person who —

- (a) deliberately obstructs the Registrar or an officer authorized in the performance of his functions under this Act or a scheme;
- (b) conducts a business in contravention of the provisions of section 8(3) or section 13;
- (c) sells any seed in contravention of section 14;
- (d) imports or exports any seed in contravention of section 27 and 28;
- (e) furnishes any particulars in connection with seed on any container in which it is sold which do not correspond with the true properties thereof;
- (f) tampers with any sample taken or any material seized under this Act;
- (g) fails to display a Certificate of Registration; or
- (h) fails to comply with any provision of a scheme while he is under an obligation to do so,

shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or imprisonment for three years or both.

LEGAL NOTICE NO. 57 OF 1988

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THE MAGISTRATES COURTS ACT, 1938

(Act No. 66 of 1938)

THE MAGISTRATES COURTS (INCREASE OF JURISDICTION) NOTICE, 1988

(Under section 73)

In exercise of the powers conferred by section 73 of the Magistrates Courts Act, 1938 I hereby issue the following Notice:

*Citation.*

1. This Notice may be cited as the Magistrates Courts (Increase of Jurisdiction) Notice, 1988.

*Increase of criminal Jurisdiction of senior magistrates. 2.*

2. Every Senior Magistrate shall, in respect of any criminal matter instituted on or after the coming into force of this Notice, have jurisdiction to impose a sentence of imprisonment not exceeding seven years or such fine as may, in accordance with law, be imposed.

**R.M. DHLADHLA**  
*Minister for Justice*

**MBABANE.**  
16th June, 1988.

S25

LEGAL NOTICE NO. 61 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

**SAMSON J. MAGAGULA**

to be Principal Secretary in the Ministry of Interior and Immigration, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

**MSWATI III**  
**KING OF SWAZILAND**

S26

LEGAL NOTICE NO. 62 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

PERCY S. MNGOMEZULU

to be Principal Secretary in the Ministry of Justice, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

S27

LEGAL NOTICE NO. 63 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

FRANK BUCKHAM

to be Principal Secretary in the Ministry of Agriculture and Co-operatives, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

S28

LEGAL NOTICE NO. 64 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of the Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

SANDILE CEKO

to be Principal Secretary in the Ministry of Natural Resources, Land Utilization and Energy, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 17TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

S29

LEGAL NOTICE NO. 65 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

ALPHUS RAYMOND SHABANGU

to be Principal Secretary in the Ministry of Foreign Affairs, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

S30

LEGAL NOTICE NO. 66 OF 1988

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THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF PRINCIPAL SECRETARY

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby appoint —

CHRISTOPHER MNDENI MKHONZA

to be Principal Secretary in the Ministry of Health, with effect from 16th Day of June 1988.

DONE AT LUDZIDZINI THIS 17TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

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LEGAL NOTICE NO. 67 OF 1988

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**THE CIVIL SERVICE ORDER, 1973**  
**APPOINTMENT OF PRINCIPAL SECRETARY**  
**(Under Section 8)**

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I MSWATI III, KING OF SWAZILAND, hereby appoint —

**ANDRIAS M. FAKUDZE**

to be Principal Secretary in the Ministry of Finance, with effect from 16th Day of June 1988.  
DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

**MSWATI III**  
**KING OF SWAZILAND**

S34

LEGAL NOTICE NO. 70 OF 1988

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THE CIVIL SERVICE ORDER, 1973

REVOCATION OF APPOINTMENT OF PRINCIPAL SECRETARIES

(Under Section 8)

In exercise of the powers conferred upon me by Section 8 of The Civil Service Order, 1973, I, MSWATI III, KING OF SWAZILAND, hereby revoke the appointments of the following persons as Principal Secretaries —

1. AMOS V. KUNENE
2. VUSUMUZI NICHOLAS DLAMINI
3. SIPHO RADEBE
4. GILBERT MABILA
5. ABSALOM V. MAMBA

with effect from 15th Day of June 1988.

DONE AT LUDZIDZINI THIS 14TH DAY OF JUNE 1988.

MSWATI III  
KING OF SWAZILAND

## LEGAL NOTICE NO. 71 OF 1988

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THE INCOME TAX (CLEARANCE CERTIFICATES) REGULATIONS, 1988  
(Under Section 69)

In exercise of the powers conferred by section 69 of the Income Tax Order, 1975, the Minister for Finance hereby makes the following Regulations:—

*Citation.*

1. These Regulations may be cited as the Income Tax (Clearance Certificates) Regulations, 1988 and shall come into force on the 1st July, 1988.

*Transactions for which and persons from whom tax clearance certificates are required.*

2. The transactions requiring income tax clearance certificates and the persons from whom income tax clearance certificates shall be required shall be as set out in the schedule hereto.

*Revocation of Legal Notice No. 141 of 1985.*

3. The Income Tax (Clearance Certificates) Regulations, 1985 are hereby revoked.

## SCHEDULE

TRANSACTIONS REQUIRING INCOME TAX CLEARANCE  
 CERTIFICATES AND PERSONS FROM WHOM INCOME TAX  
 CLEARANCE CERTIFICATES REQUIRED

<i>Type of Transaction</i>	<i>Persons from whom Income Tax Clearance are Required.</i>
1. The issue, renewal or transfer of any licence (other than renewal of motor vehicle licence), permit or similar document relating to any trade, business, profession or vocation.	Persons seeking issue, renewal or transfer of any licence, permit or similar document.
2. The transfer of immovable property or any endorsement to any title deed having the effect of transferring immovable property.	The transferor, or any person in whose name the endorsement is to be made.
3. The registration or deregistration of a company.	In the case of registration the persons whose names are to be registered as directors or subscribers; in the case of deregistration by the company to be deregistered.
4. First registration of a motor vehicles in Swaziland.	Persons in whose name the motor vehicle is to be registered.
5. The tendering for the provision of goods or services to the Government or a parastatal body, in excess of E5,000.	Persons tendering for provision of goods or services to Government or parastatal body.

K. MBULI  
*Principal Secretary.*