

SUPPLEMENT TO THE SWAZILAND GOVERNMENT GAZETTE

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CONTENTS

No.

Page

PART A - BILL

3. The Swaziland Intellectual Property Tribunal Bill, 2011.....	S1
6. The Appointment of Acting Registrar of the Industrial Court Notice, 2011.....	S9
7. Annual List of Veterinary Surgeons on Register Notice, 2011	10

PUBLISHED BY AUTHORITY

THE SWAZILAND INTELLECTUAL PROPERTY TRIBUNAL BIL, 2011

(Bill No. 3 of 2011)

(to be presented by the Minister for Commerce, Industry and Trade)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the establishment of the Swaziland Intellectual Property Tribunal which will be responsible for presiding over all matters and cases involving intellectual property rights in Swaziland.

M. J. DLAMINI
ATTORNEY-GENERAL

ARRANGEMENT OF SECTIONS**PART I**
PRELIMINARY

1. Short Title and Date of Commencement
2. Interpretation

PART II
ESTABLISHMENT AND COMPOSITION OF THE SWAZILAND
INTELLECTUAL PROPERTY TRIBUNAL

3. Establishment and nature of the Swaziland Intellectual Property Tribunal.
4. Presidents of Tribunal.
5. Composition of Tribunal.
6. Remuneration of Tribunal.
7. Exercise of jurisdiction of Tribunal.
8. Assessors.

PART III
JURISDICTION AND POWERS OF TRIBUNAL

9. Jurisdiction of Tribunal.
10. Powers of Tribunal.
11. Costs.

PART IV
PROCEDURE AND EVIDENCE

12. Proceedings to be in public.
13. Representation of parties.
14. Procedure of Tribunal: power to make rules.
15. Evidence.

PART V
REGISTRAR OF TRIBUNAL AND RECORD OF PROCEEDINGS

16. Registrar of Tribunal and other officers.
17. Record of proceedings of Tribunal.

PART VI
APPEALS

18. Appeal to Supreme Court from decision of Tribunal.
19. Powers of Supreme Court on appeal.

PART VII
GENERAL

20. Times and places of sitting of Tribunal.
21. Evidence of decisions of Tribunal.
22. Witness failing to attend Tribunal or to be sworn or give evidence.
23. Witness giving false evidence.

A BILL
ENTITLED

AN ACT to establish the Swaziland Intellectual Property Tribunal and to provide for matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland.

PART I
PRELIMINARY

Short Title and Date of Commencement

1. (1) This Act may be cited as the Swaziland Intellectual Property Tribunal Act, 2011.
(2) This Act shall come into operation on a date to be appointed by the Minister by Notice in the Gazette.

Interpretation

2. In this Act -

“appropriate enactment” means the Act relating to the specific area of intellectual property in relation to which a case brought before the Tribunal belongs;

“Minister” means the Minister responsible for intellectual property or any other Minister to whom the administration of this Act may be assigned;

“President of the Tribunal” means a President of the Tribunal appointed in terms of section 4;

“Registrar of Tribunal” Means the Registrar of the High Court;

“Tribunal” means the Swaziland Intellectual Property Tribunal established by section 3.

PART II
ESTABLISHMENT AND COMPOSITION OF SWAZILAND
INTELLECTUAL PROPERTY TRIBUNAL

Establishment and nature of Swaziland Intellectual Property Tribunal

3. (1) There is hereby established a Tribunal, to be known as the Swaziland Intellectual Property Tribunal, for the purpose of hearing and determining references, applications, appeals and other matters relating to intellectual property rights.

(2) The Tribunal shall be a court of record.

Presidents of Tribunal

4. The Chief Justice shall appoint two or more judges of the High Court to be Presidents of the Tribunal.

Composition of Tribunal

5. The jurisdiction of the Tribunal shall be exercised by a President of the Tribunal sitting with one or more assessors appointed in terms of section 6.

Remuneration of Tribunal

6. A President of the Tribunal shall, after the completion of a case, be paid such allowances as the Minister, with the consent of the Minister responsible for Finance, may prescribe.

Assessors

7. (1) Subject to this section, a President or Presidents of the Tribunal may appoint two persons from the appropriate list of persons referred to in subsection (2) to assist as assessors in determining any matter that is required to be determined in any case before the Tribunal.

(2) With the approval of the Chief Justice, the Presidents of the Tribunal shall draw up a list of the names of not fewer than ten persons who have knowledge or experience in intellectual property issues to act as assessors and who are otherwise suitable for appointment as such.

(3) The Presidents of the Tribunal may -

- (a) draw up different lists in terms of subsection (2) for different classes of cases;
- (b) with the approval of the Chief Justice, amend any list drawn up in terms of subsection (2).

(4) Before commencing duties for the first time, an assessor shall take an oath of office as a member of the Tribunal before a President.

(5) An assessor appointed in terms of subsection (1) shall act in an advisory capacity only and shall not be entitled to a vote in the decision of the Tribunal.

(6) An assessor shall, after the completion of a case, be paid such remuneration and allowances as the Minister, with the consent of the Minister responsible for Finance, may prescribe.

PART III **JURISDICTION AND POWERS OF TRIBUNAL**

Jurisdiction of Tribunal

8. (1) Subject to this Act and the appropriate enactment, the Tribunal shall have jurisdiction to hear and determine -

- (a) any reference, application, appeal or other matter in terms of the Patents Act, the Utility Models and Industrial Designs Act, the Trade Marks Act and the Copyright and Neighbouring Rights Act; and
- (b) any matter that is brought before it as an additional or alternative claim in a matter referred to in paragraph (a) and arises out of substantially the same cause of action or conduct; and
- (c) any matter that arises incidentally out of a matter referred to in paragraph (a).

(2) The Tribunal shall have no jurisdiction to try any criminal cases.

Powers of Tribunal

9. (1) In determining the matters referred to in section 7 the Tribunal may exercise -

- (a) subject to this Act and the appropriate enactment, all the powers that the High Court may exercise in a civil case; and
- (b) any additional power conferred upon the Tribunal by or under an Act referred to (1) of section 7 (1) (a).

(2) Without derogation from the generality of subsection (1), the Tribunal shall have the same power as the High Court to make orders -

- (a) requiring any party to give security for costs;
- (b) for the purpose of securing the attendance of any person before it;
- (c) for the discovery or production of any document;
- (d) for the investigation and punishment of any contempt;

(e) for the enforcement of its orders, whether by way of execution, attachment or otherwise.

(3) Subject to the appropriate enactment, the Tribunal may -

(a) in an appeal or review, confirm, vary, reverse or set aside the decision, order or action concerned or refer the matter back to the person or authority concerned for further consideration; or

(b) in any matter, make such determination or order as may be provided for in the appropriate enactment.

Costs

10. (1) Except as otherwise provided in the appropriate enactment, the Tribunal may make such order as to costs as it considers just.

(2) The costs in connection with any proceedings before the Tribunal shall be payable in accordance with -

(a) such scale of costs as may be prescribed in rules made in terms of section 12; or

(b) where there is no scale such as is referred to in paragraph (a), the scale of costs for the time being in use in the High Court in civil cases.

(3) Any costs awarded in terms of subsection (1) shall be liable to be taxed by the Registrar, and any such taxation shall be subject to review by the President of the Tribunal at the instance of any interested party.

PART IV PROCEDURE AND EVIDENCE

Proceedings to be in public

11. Except as provided in rules made in terms of section 12, the proceedings of the Tribunal shall be conducted in public.

Representation of parties

12. (1) At any hearing before the Tribunal, any party may appear in person or be represented by a legal practitioner.

(2) In any matter in which an official of the Copyright Office, Trademarks Office or patents Office is required or permitted to appear before the Tribunal, the official may appear in person or be represented by -

(a) a registrar or other officer employed in the office of the registrar; or

(b) a legal practitioner.

Procedure of Tribunal: power to make rules

13. (1) Subject to this section, the Presidents of the Tribunal may make rules for the Tribunal providing for -

- (a) the practice, procedure and rules of evidence to be followed, including the determination of any preliminary point in any proceedings;
- (b) the service of notices and other documents required for the purpose of any proceedings;
- (c) security for costs to be given by parties who reside outside Swaziland;
- (d) forms to be used for the purpose of any proceedings;
- (e) fees to be paid in respect of -
 - (i) the making of any reference or application or the noting of any appeal to the Tribunal; and
 - (ii) the service and examination of documents and the doing of any other thing by the Registrar or any officer of the Tribunal in connection with any proceedings;
- (f) a tariff of fees which may be charged by legal practitioners in respect of any matter relating to the Tribunal;
- (g) fees and allowances payable to assessors;
- (h) allowances and other payments to witnesses summoned to give evidence or to produce any book or document in any proceedings;
- (i) the condonation of non-compliance with the rules;
- (j) any other matter whatsoever which the President or Presidents consider should be provided for in rules in order to ensure or facilitate the proper dispatch and conduct of the business of the Tribunal.

(2) In any matter not covered by rules made in terms of subsection (1) or by any other enactment -

- (a) the rules relating to practice and procedure in the High Court in civil cases shall apply, where appropriate; or
- (b) if the rules referred to in paragraph (a) cannot be applied appropriately, the Tribunal shall act in such manner and on such principles as it considers best fitted to do substantial justice and to effect and carry out the objects and provisions of this Act and the appropriate Act,

and for that purpose may give the parties to the proceedings instructions on the course to be pursued.

(3) Rules made in terms of subsection (1) shall not have effect until they have been approved by the Chief Justice and the Minister and published in a statutory instrument.

Evidence

14. Subject to the appropriate enactment and any rules made in terms of 12, in any proceedings before it the Tribunal may accept evidence by affidavit or take oral evidence and allow any witness to be cross-examined on affidavit or oral evidence.

PART V
REGISTRAR OF TRIBUNAL AND RECORD OF PROCEEDINGS

Registrar of Tribunal and other officers

15. (1) There shall be a Registrar of the Tribunal and such deputy registrars and other officers as may be necessary, whose offices shall be public offices and form part of the Civil Service.

(2) The Registrar shall perform such functions as may be assigned by or under this Act or any other enactment.

Record of proceedings of Tribunal

16. (1) Subject to rules made in terms of section 12, a record of the proceedings of the Tribunal shall be kept and filed in the office of the Registrar.

(2) The record kept in terms of subsection (1) shall be accessible to the public and copies may be obtained upon the same conditions and upon payment of the same fees as if they were civil records of the High Court.

PART VI
APPEALS

Appeal to Supreme Court from decision of Tribunal

17. (1) Subject to subsection (2) and the appropriate enactment, any person who is dissatisfied with any decision of the Tribunal may lodge an appeal with the Supreme Court within three months following the announcement of the decision by the Tribunal.

(2) Except as otherwise provided in the appropriated enactment, no appeal shall lie from -

- (a) any order of the Tribunal made with the consent of the parties;
- (b) an order as to costs only or a provisional order or a provisional judgment;

without the leave of the Tribunal or a President of the Tribunal or, if such leave has been refused, without the leave of a judge of the Supreme Court.

Powers of Supreme Court on appeal

18. Except as otherwise provided in the appropriate enactment, in any appeal in terms of section 16 (1), the Supreme Court may -

- (a) exercise its powers in terms of the Constitution or take any other course which may lead to the just, speedy and, as far as possible, inexpensive settlement of the matter;
- (b) make an order as to costs as it considers just.

PART VII
GENERAL

Times and places of sitting of Tribunal

19. The Tribunal shall sit at such times and in such places as a President of the Tribunal may appoint.

Evidence of decisions of Tribunal

20. In any proceedings before a court, a copy of an order of the Tribunal, certified by the Registrar, shall be admissible on its production by any person and shall be sufficient proof of the order unless the contrary is proved.

Witness failing to attend Tribunal or to be sworn or give evidence

21. (1) If any person who has been subpoenaed to give evidence before the Tribunal or to produce any book or document to the Tribunal -

- (a) fails without just cause to attend or to remain in attendance until duly excused by the Tribunal from further attendance; or
- (b) without just cause, refuses to be sworn as a witness; or
- (c) having been sworn, refuses without just cause -
 - (i) to answer fully and satisfactorily any question lawfully put; or
 - (ii) to produce the book or document;

the person shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (10 000) or to imprisonment for a period not exceeding two years or to both.

(2) Subsection (1) shall not be construed as limiting the power of the Tribunal under section 8 to deal summarily with any contempt.

Witness giving false evidence

22. Any witness who, after having been sworn, makes a false statement of fact material to any question under consideration by the Tribunal, knowing the statement to be false or not having reasonable grounds for believing it to be true, shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (E10 000) or to imprisonment for a period not exceeding two years or to both.

LEGAL NOTICE NO. 6 OF 2011

THE JUDICIAL SERVICE COMMISSION ACT, 1982
(Act No. 13 of 1982)

THE APPOINTMENT OF ACTING REGISTRAR OF THE
INDUSTRIAL COURT NOTICE, 2011
(Under Section 5)

In exercise of the powers conferred by Section 5 of the Judicial Service Commission Act, 1982, the Judicial Service Commission appoints -

XOLILE H. NXUMALO

as Acting Registrar of the Industrial Court with effect from the 4th January, 2011 to 24th January 2011.

M. M. RAMODIBEDI

CHAIRMAN

JUDICIAL SERVICE COMMISSION

LEGAL NOTICE NO. 7 OF 2011

THE VETERINARY SURGEONS ACT, 1997
(Act No. 8 of 1997)ANNUAL LIST OF VETERINARY SURGEONS ON REGISTER NOTICE, 2011
(Under Section 11)*List of Veterinary Surgeons*

I. It is notified for general information that the list of Veterinary Surgeons registered in the Register of Veterinary Surgeons, by the 31st December 2010, is as follows:

NAME	QUALIFICATION	REGISTRATION NUMBER	DATE OF REGISTRATION
Dr Robert Sipho N. Thwala	DVM (TSKGEE) BSC Animal (TSKGEE) Poultry Science	VCS 001	29 December 2009
Dr Nicholas Thulasizwe Gumedze	BVSc (East Africa) DTVM (Edin)	VCS 002	31 December 2009
Dr Nhlanhla Johane Shongwe	BVSc (Zim)	VCS 003	29 December 2009
Dr Ronnie Samkeliso Nxumalo	MSc TVM (Edin) BVM (NRBI) BSc. (UBS)	VCS 004	23 December 2009
Dr Theminkosi Ndlangamandla	BVSc (Zim) BSc (UNISWA) PGCE (UNISWA)	VCS 005	28 December 2009
Dr Mduduzi Patrick Dlamini	MSc TAH (Antwerp) BVMS (Murdoch)	VCS 006	31 December 2009
Dr Bhekithemba Simelane	BVSc (Zim) BSc (UNISWA) CDE (UNISWA)	VCS 007	28 December 2009
Dr Sihle Mdluli	MSc TAH (Antwerp) BVSc (Zim)	VCS 008	16 December 2009
Dr Zizwe Muzi Cindzi	BVSc (Zim) BSc (UNISWA)	VCS 009	31 December 2009
Dr Cecilia Zandile N. Mlangeni	BVSc (Zim)	VCS 010	28 December 2009
Dr Sibongile Songo	MSc TVM (Edin) BVSc and AH (Kerala)	VCS 012	28 December 2009

NAME	QUALIFICATION	REGISTRATION NUMBER	DATE OF REGISTRATION
Dr Jesse Nkya Kundaeli	BVM (NRBI)	VCS 013	31 December 2009
Dr Simon Eilu	BVM (Mkrere)	VCS 014	30 December 2009
Dr Roland Xolani Dlamini	MSc VPH Mgt (Sydney) BVSc (Zim) BSc (UNISWA) CDE (UNISWA)	VCS 016	31 December 2009
Dr Barry Michael Spencer	BVSc (Pretoria)	VCS 017	29 December 2009
Dr Bernard Nkhumba Dlamini	MSc Int AH (Edin) BVSc (Zim) BSc Agric (UNISWA)	VCS 018	15 December 2009
Dr Prince K. Danso	MSc Honours (Faisalabad) DVM (Faisalabad)	VCS 019	31 December 2009
Dr Mwale Lufungulo	MRCVsS (London) MVB (Dublin) B Agric Sc (Zam)	VCS 020	31 December 2009
Dr Tony Mduduzi Dlamini	MBA (Leeds) MSc Vet Epid (Reading) BVMS (Medunsa) Dip Agric Ed (UNISWA)	VCS 022	28 December 2009
Dr Noel Elisha Chikuni	MAPCM - LIPS (U. Larenstein) BVSc (Zim)	VCS 023	15 December 2009
Dr Mainza Namalende Shandomo	MSc APH (Edin) Dr Med Vet (Vienna) BVSc (East Africa)	VCS 024	18 December 2009
Dr Mcebo Edwin Dlamini	BVSc (Zim) BSc (UNISWA)	VCS 025	23 December 2009
Mr Muzi Mzwandile Dube	BVSc (Zim) BSc (UNISWA)	VCS 026	31 December 2009
Dr Takula Tshuma	BVSc (Zim)	VCS 027	15 December 2009
Dr Mostafa Mohamed Abad Elaziz Emam	BVDc (Cairo)	VCS 028	28 December 2009
Dr Kevin Weichih Lee	BVM (Taiwan)	VCS 029	31 December 2009

NAME	QUALIFICATION	REGISTRATION NUMBER	DATE OF REGISTRATION
Dr Colin James Lovey	MSc Con Ecol (Stellenbosch) BVSc (Pretoria)	VCS 030	31 December 2009
Dr Fanelo Philip Dlamini	BVMCh (MEDUNSA) BSc Agric (UNISWA) Dip. Agric (UBS)	VCS 031	16 December 2009
Dr Fantu Ashine Kelele	MSc TVP (Addis Ababa) DVM (Havana)	VCS 032	29 December 2010
Dr Ashraf Mohammed Mohmoud Khalil	PhD (Yamaguchi) MAgric (Miyazaki) MSc AB (Suez Canal) BVM (Cairo)	VCS 033	29 December 2010

Revocation of Legal Notice No. 50 of 2010

The Annual list of Veterinary Surgeons on Register Notice No. 50 of 2010 is hereby revoked.

DR R. S. NXUMALO
REGISTRAR / SECRETARY TO COUNCIL

