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PUBLISHED BY AUTHORITY

PART B

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DECREE NO. 1 OF 2002

THE KING'S PROCLAMATION TO THE NATION OF 12TH APRIL, 1973
(Act No. 34 of 1968)

THE ESTABLISHMENT OF THE CONSTITUTION DRAFTING COMMITTEE DECREE, 2002

In exercise of the powers vested in me by the King's Proclamation to the Nation of 12th April, 1973, I, **MSWATI III, KING OF THE KINGDOM OF SWAZILAND** hereby issue the following Decree -

Citation

1. This Decree may be cited as the Establishment of the Constitution Drafting Committee Decree, 2002.

Establishment of the Committee

2. (1) There is hereby established a Committee to be known as the Constitution Drafting Committee (hereinafter referred to as the "Committee").

- (2) The Committee shall be composed of the following members -

- | | |
|---|---------------|
| (a) His Royal Highness Prince David | - Chairperson |
| (b) Senator Majahenkhaba Dlamini | - Secretary |
| (c) Duma Msibi | - Member |
| (d) Bheki Maphalala | - Member |
| (e) Mrs. Nokukhanya Gamedze | - Member |
| (f) Gideon Gumedze | - Member |
| (g) Chief Zabeni Shiba | - Member |
| (h) Mrs Claren B. Thobela | - Member |
| (i) Lomashikizela Ndwandwe | - Member |
| (j) Her Royal Highness Princess Phumelele | - Member |
| (k) Mrs. Lonkhululeko Ndzinisa | - Member |
| (l) Rev. George Dlamini | - Member |
| (m) Nsika Fakudze | - Member |
| (n) Prince Mangaliso | - Member |
| (o) two officers from the Attorney-General's Office whose names shall be published in the Gazette by the Minister responsible for Justice and Constitutional Affairs. | |

- (3) The Attorney-General shall be an ex officio member of the Committee and may, in his absence, delegate an officer from the office of the Attorney-General to represent him.

- (4) Subject to subsection (5), members of the Committee shall be paid such allowances and expenses from the Consolidated Fund as may be deemed appropriate.

- (5) Members of the Committee shall retain their positions and remuneration wherever they were employed prior to the appointment of the Committee.

Terms of reference of the Committee

3. (1) The Committee shall, in consultation with the Attorney-General and other experts, draft a new Constitution suitable for the Kingdom of Swaziland and in doing so shall -

- (a) go through the report of the Constitutional Review Commission with a view to understand the aspirations of the Swazi Nation in as far as the contents of the new Constitution are concerned;
- (b) review the documents pertaining to the current constitutional framework together with the Independence Constitution to obtain any information, guidelines or principles that may be included in the new Constitution;
- (c) review any legislation, Decree or Proclamation which has a bearing on constitutional and human rights matters;
- (d) consider constitutions of other countries which the Committee may consider appropriate for the purpose of obtaining any information, guidelines or principles which may be included in the new Constitution;
- (e) consider the 1992 Tinkhundla Review Commission Report;

(2) Notwithstanding section 3(2) and (3) of Decree No. 2 of 1996 and without prejudice to the generality of the foregoing, the Committee shall -

- (a) consider and provide for appropriate provisions and or entrenchments of the Monarchy, other Swazi traditional institutions, the three arms of Government, citizenship, the Public Service, Finance, the environment and natural resources (land and minerals) in the new Constitution;
 - (b) examine and provide for fundamental human rights and freedoms of the individual and other rights in the new Constitution and for this purpose examine any legal instruments or documents that may contain them;
 - (c) examine and determine the desirability of including principles of state policy in the new Constitution on certain vital matters affecting the people of Swaziland;
 - (d) consider and provide for appropriate constitutional mechanisms to amend the new Constitution; and
 - (e) ensure good governance by including in the new Constitution such other issues as may be necessary or appropriate.
- (3) In the performance of its functions and in the exercise of its powers, the Committee -
- (a) shall invite such experts on Swazi Law and Custom as it deems necessary to assist it especially with issues relating to the Monarchy and Swazi traditional institutions; and
 - (b) may invite other experts so as to assist in its work.

Records of proceedings

4. The Committee shall not -
- (a) make available any of its records or documents to any person other than to Members of the Committee, the Attorney-General, experts assisting the Committee and members of the Secretariat; and
 - (b) permit any other person other than a Member of the Committee, the Attorney-General, experts assisting the Committee and members of the Secretariat, to have access to any of its records or documents.

Oaths

5. Members of the Committee, the Secretariat and any other person assisting the Committee shall as applicable, take an oath or affirmation for the due execution of office and the maintenance of confidentiality in the performance of their duties.

Secretariat

6. There shall be a Secretariat for the Committee provided by the Ministry of Justice and Constitutional Affairs.

Quorum

7. The quorum of the Committee shall be half of its membership.

Rules of procedure

8. Subject to this Decree, the Committee may determine its own rules of procedure.

Submission of Draft Constitution

9. The Committee shall submit the Draft Constitution to the King within eight (8) months from the publication of this Decree.

Venue and address of the Committee

10. (1) The address of the Committee shall be determined by the Chairman.
- (2) The Committee shall conduct its sitting at such venue as the Chairman may determine.

THUS DONE UNDER MY HAND AT LOZITH'EHLEZI THIS 19TH DAY OF FEBRUARY, 2002.

MSWATI III
KING OF SWAZILAND

The Government Printer, Mbabane