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SWAZILAND GOVERNMENT GAZETTE

VOL. XLV]

MBABANE, Friday, MARCH 2nd 2007

[No. 23

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PUBLISHED BY AUTHORITY

GENERAL NOTICE NO. 9 OF 2007

THE CHANGE OF NAME ACT 1962
(Act No. 67 of 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under Section 3)

In exercise of the powers conferred upon him by Section 3 of the Change of Name Act, 1962 the Minister for Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

JABULANI PHILLIP DLAMINI

a resident of **Elangeni Royal Kraal** in the Hhohho Region to assume the surname **MAGONGO**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
16th February 2007

GENERAL NOTICE NO. 10 OF 2007

THE CHANGE OF NAME ACT 1962
(Act No. 67 of 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under Section 3)

In exercise of the powers conferred upon him by Section 3 of the Change of Name Act, 1962 the Minister for Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

PATRICK BONGANI "GWAZA" MAVUSO

a resident of **Ka-Lamgabhi Royal Kraal** in the Hhohho Region to assume the surname **SEABRA**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
16th February 2007

GENERAL NOTICE NO. 11 OF 2007

THE CHANGE OF NAME ACT 1962
(Act No. 67 of 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under Section 3)

In exercise of the powers conferred upon him by Section 3 of the Change of Name Act, 1962 the Minister for Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

MCOLISI THAMSANQA MBHELE

a resident of **Engwenyameni Royal Kraal** in the Shiselweni Region to assume the surname **DUBE**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
16th February 2007

GENERAL NOTICE NO. 12 OF 2007

THE CHANGE OF NAME ACT 1962
(Act No. 67 of 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under Section 3)

In exercise of the powers conferred upon him by Section 3 of the Change of Name Act, 1962 the Minister for Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

NHLANHLA MAPHIKELELA DLAMINI

a resident of **Mlonyeni Community Chief Malunge 11** in the Manzini Region to assume the surname **ZIKALALA**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
16th February 2007

GENERAL NOTICE NO. 13 OF 2007

THE CHANGE OF NAME ACT 1962
(Act No. 67 of 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under Section 3)

In exercise of the powers conferred upon him by Section 3 of the Change of Name Act, 1962 the Minister for Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

VUSI PHAKATSI

a resident of **Velezizweni Royal Kraal** in the Manzini Region to assume the surname **MALAZA**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
16th February 2007

GENERAL NOTICE NO. 14 OF 2007

THE MARRIAGE ACT OF 1964
(Act No 47 of 1964)APPOINTMENT OF MARRIAGE OFFICERS NOTICE, 2007
(Under Section 16)

In exercise of the powers conferred by Section 16 of the Marriage Act No. 47 of 1964 The Honourable Minister for Justice and Constitutional Affairs hereby appoints the following persons to be Marriage Officers for the Kingdom of Swaziland.

1. **Thandi Emmelinah Shongwe**
True Transformation Evangelical Power Church
P.O. Box 59
Entfonjeni (KaHhelehhele)
2. **Joseph Jubindaba Mziyako**
True Transformation Evangelical Power Church
P.O. Box 59
Entfonjeni
3. **Mlungisi Sikhumbuzo S. Dlamini**
God's Victorious Army Ministries Gospel Assemblies
P.O. Box 1000
Mbabane
4. **Isaiah Gundwane Masilela**
Asiya Church of Zion
P.O. Box 1002
5. **Jethros Mlandvuleni Matsebula**
The Swazi Zion (Ekupheleni)
P.O. Box 69
Ebuhleni
6. **Samson Kunene**
Children of God Ministry
P.O. Box 1779
Mbabane
7. **Robert Mfanasibili Mkhabela**
Glorious Church of Christ
P.O. Box 46
Mzimpofu
8. **Mcolisi Fortune Dlamini**
Church of God
P.O. Box 5733
Manzini

9. **Themba Vincent Dlamini**
Phocweni Church of God
P.O. Box 5733
Manzini
10. **Nimrod Mciniseli Kunene**
Power Reediming Church
P.O. Box 149
Mbabane
11. **Mabandla Mduduzi Manyatsi**
Phocweni Church of God
P.O. Box 5753
Manzini
12. **Sifiso Mlungisi William Sukati**
Church of God
P.O. Box 5753
Manzini
13. **William Mlungu Dladla**
Church of God
P.O. Box 5753
Manzini
14. **Thomas Sihlongonyane**
Bhalekane Church of the Nazarene
P.O. Box 3689
Manzini

The effective date for the Marriage Officers is the 21st February 2007.

S. D. MASILELA
FOR: PRINCIPAL SECRETARY

NOTICE

Notice is hereby given that **I, Thomas William Gulwako of Lubombo Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Dlamini** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Lubombo Region** and in the government Gazette.

The reason I want to assume the surname **Dlamini** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Dlamini** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Lubombo Region**.

P.O. Box 213
Mambane

I217 4x02-03-2007

NOTICE

Notice is hereby given that **I, Zakhele Ndlovu of Lubombo Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Dlamini** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Lubombo Region** and in the government Gazette.

The reason I want to assume the surname **Dlamini** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Dlamini** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Lubombo Region**.

P.O. Box 200
Nsoko

I222 4x02-03-2007

NOTICE

ESTATE LATE: NOMSA LAVINIA MASUKU ESTATE NO. ES299/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BERLY MAPULA MASUKU
P.O. Box A669
Swazi Plaza

I349 02-03-2007

NOTICE

Notice is hereby given that **I, Nonzuzo Nokuthula Ruth Mngomezulu of Lubuli Lubombo Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Gumedze** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Lubombo Region** and in the government Gazette.

The reason I want to assume the surname **Gumedze** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Gumedze** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Lubombo Region**.

P.O. Box 1222
Mbabane

I279 4x02-03-2007

NOTICE

Notice is hereby given that **I, Elmon Logwaja Tsabedze of Manzini Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Mkhatshwa** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Manzini Region** and in the government Gazette.

The reason I want to assume the surname **Mkhatshwa** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Mkhatshwa** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Manzini Region**.

P.O. Box 1
Simunye
Ngomane Section 14

I279 4x09-03-2007

NOTICE

ESTATE LATE: LUCKY THEMBA MAGAGULA ESTATE NO. EH26/07

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

CELLIN THANDI DLAMINI
P.O. Box 299
Mbabane

I351 02-03-2007

NOTICE

Notice is hereby given that we intend applying for a certified copy of Crown Grant No. 132/1980 dated the 15th day of August, 1980 and registered on the 19th December, 1980, made in favour of: **MFANALENI MICHAEL DLAMINI (born on the 26th day of December, 1966) I.D. No. 2101-01-3379590** in respect of the undermentioned property:

CERTAIN : Portion 10 of Lot No. 72 situate in Mbabane Urban Area Hhohho District, Swaziland;

MEASURING : 549 (Five Four Nine) Square Metres;

Any person having an objection to the issue of such copy by the Registrar is hereby requested to lodge such objection in writing with the Registrar of Deeds, Mbabane, within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 15TH DAY OF FEBRUARY, 2007.

M. J. MANZINI & ASSOCIATES

Attorneys for Applicant
3rd Floor, Lilunga House
P.O. Box A204
Swazi Plaza
Mbabane

I323 2x02-03-2007

NOTICE

Notice is hereby given that we intend applying for the cancellation of an entry in the Deeds Office Register relating to:

Mortgage Bond No. 660/1999 dated the 12th day of November 1999 for an amount of E7 000.00 (Seven Thousand Emalangeni) passed by **ESTATE LATE MORDECAI AHOLIAB KHUMALO** in favour of **NEDBANK (SWAZILAND) LIMITED**.

Any person having objection to the cancellation of such entries in the Deeds Register is hereby requested to lodge such objection in writing with the Registrar of Deeds within three (3) weeks of the last publication of this Notice.

DATED AT MBABANE ON THIS THE 11TH DAY OF JANUARY, 2007.

ZONKE MAGAGULA & CO.

1st Floor, Bhunu Mall
Nkoseluhlazaa Street
Manzini

I288 2x16-02-2007

NOTICE

**ESTATE LATE: JOSEPHINE SIPHIWE MZIYAKO WHO DIED ON
10TH JANUARY 2006 - E.H. 267/2006**

Debtors and Creditors in the above Estate are hereby called upon to lodge their claims with and pay their debts to the undersigned within thirty (30) days from date of publication of this Notice.

DUNSEITH ATTORNEYS
Attorneys for the Executrix
Lansdowne House
Post Street
P.O. Box 423
Mbabane

I347 02-03-2007

NOTICE

ESTATE LATE: ERNEST LAMBILE NKAMBULE ESTATE NO. EM35/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

PATRICK SABANI NKAMBULE
P.O. Box 744
Manzini

I353 02-03-2007

NOTICE

**ESTATE LATE: NHLANGANISO DANIEL VILAKATI
ESTATE NO. EH329/2006**

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BHEKI NHLANHLA J. VILAKATI &
SIBONGILE A. VILAKATI
P.O. Box 12
Mbabane

I355 02-03-2007

NOTICE

ESTATE LATE: ALBERT MPHESHANA SHONGWE ESTATE NO. EH367/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

DUDUZILE DLAMINI &
GUGU NDLANGAMANDLA
P.O. Box 2395
Mbabane

I356 02-03-2007

NOTICE

**ESTATE LATE: MNDZINDVWA RUPHUS MKHATSHWA
ESTATE NO. EM493/2006**

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

PHIKISILE F. MKHATSHWA
P.O. Box 4472
Manzini

I358 02-03-2007

NOTICE

ESTATE LATE: NTOMBITODVWA SOPHIA MNDVOTI ESTATE NO. EH48/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within twenty one (21) days after the date of publication of this Notice.

MR. MAVUMBUKA S. MNDVOTI
P.O. Box 39
Mbabane

I359 02-03-2007

NOTICE

ESTATE LATE: DONALD JABULANI TSABEDZE ESTATE NO. EH121/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NCANE ALEXINAH TSABEDZE
P.O. Box 254
Mhlume

I360 02-03-2007

NOTICE

ESTATE LATE: MARIA THANDI MANYATSI ESTATE NO. EH369/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BHEKITHEMBA J. MANYATSI
P.O. Box 4438
Mbabane

I364 02-03-2007

NOTICE

ESTATE LATE: AMOS NDZIMANDZE ESTATE NO. EH64/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within twenty one (21) days after the date of publication of this Notice.

SIZAKELE JOICE NDZIMANDZE
P.O. Box 13
Manzini

I365 02-03-2007

NOTICE

ESTATE LATE: GIFT ELVIS GREENHEAD ESTATE NO. EH165/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

THABISO BOBBY GREENHEAD
P.O. Box 20
Ezulwini

I367 02-03-2007

NOTICE

ESTATE LATE: BENJAMIN M. MHLANGA ESTATE NO. EH298/2005

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BHEKA BHEKINKOSI MHLANGA
P.O. Box 376
Piggs Peak

I368 02-03-2007

NOTICE

ESTATE LATE: FREDDY MMELELI MAGAGULA ESTATE NO. EL229/2004

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MUZI EUGENE MAGAGULA
P.O. Box 55
Mpaka

I370 02-03-2007

NOTICE

ESTATE LATE: ALFRED JIBA SIMELANE ESTATE NO. ES257/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within twenty one (21) days after the date of publication of this Notice.

DUDUZILE GOODNESS SIMELANE
P.O. Box 40
Hlathikhulu

I372 02-03-2007

NOTICE

ESTATE LATE: VICTOR NDINGILIZI DLAMINI ESTATE NO. EH349/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

CELUMUZI NKHUNDLA DLAMINI
P.O. Box 372
Ezulwini

I374 02-03-2007

NOTICE

ESTATE LATE: WILSON SENZO MAGAGULA ESTATE NO. EL200/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

THULILE N. KUNENE,
MAUREEN S. MATSENJWA &
CECILIA E. HLOPHE
P.O. Box 215
Piggs Peak

I376 02-03-2007

NOTICE

ESTATE LATE: PHILEMON TIGEGER MATSENJWA ESTATE NO. EL77/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

BEAUTY T. MATSENJWA &
ZODWA GAMEDZE
P.O. Box 305
Siteki

1350 02-03-2007

NOTICE

ESTATE LATE: THULISILE CHRISTABEL NZAMA ESTATE NO. EH97/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

VUSIE PHILLIP SIBISI
P.O. Box 70
Mhlambanyatsi

1352 02-03-2007

NOTICE

ESTATE LATE: ZANELE PRUDENCE DLADLA ESTATE NO. EM236/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

SIBUSISO W. DLADLA
P.O. Box 2218
Manzini

1357 02-03-2007

NOTICE

ESTATE LATE: FLORENCE SHABANGU ESTATE NO. EM269/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

NJABULO MASUKU
P.O. Box 7262
Manzini

I361 02-03-2007

NOTICE

ESTATE LATE: BOY JOSEPH BENNET ESTATE NO. EM257/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

CHARLES BENNETT
P.O. Box 219
Manzini

I362 02-03-2007

NOTICE

ESTATE LATE: THEMBINKOSI DONALD MDLULI ESTATE NO. EP69/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

ZINHLE MDLULI
P.O. Box 70
Ntfontjeni

I363 02-03-2007

NOTICE

ESTATE LATE: SANDILE MAVUSO ESTATE NO. EH86/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

LUNGISILE MAVUSO
P.O. Box 426
Lobamba

1366 02-03-2007

NOTICE

ESTATE LATE: FELOKWAKHE JAMES ZWANE ESTATE NO. ES153/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice. .

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

LOMAGUGU ZWANE NEE FAKUDZE
P.O. Box 16
Siphofaneni

1369 02-03-2007

NOTICE

ESTATE LATE: JABULANI JOSEPH DLAMINI ESTATE NO. EM142/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

MR GOODWILL MASUKU
P.O. Box B114
Sandla Mbabane

1371 02-03-2007

NOTICE

ESTATE LATE: SAMUEL FAHLAZA DLAMINI ESTATE NO. EM232/99.

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

MICAH DLAMINI
P.O. Box 17
Luve

I375 02-03-2007

NOTICE

ESTATE LATE: ELSIE SIBONILE SIBANDZE ESTATE NO. ES158/2003

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

CEBSILE KHOZA
P.O. Box 13
Hluthi

I378 02-03-2007

NOTICE

ESTATE LATE: JEREMIAH BIZZAH VILAKATI ESTATE NO. EM432/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

NCAMSILE LOKHA VILAKATI
P.O. Box 377
Malkerns

I379 02-03-2007

NOTICE

Notice is hereby given that in terms of Section 5 of the Protection of Names, Uniforms and Badges Act No. 10 of 1969, an application made by **JAMESON G. MNCINA**, of **BOX 504, PIGGS PEAK** in his capacity as an **ARCH BISHOP** of the **CHURCH** has been made for the Grant for the protection of the following Badges.



Any person or persons likely to be affected by the Grant of the name may at any time within a period of the publication of this notice, give notice of objection in writing on the prescribed form of objection and send same to the applicant.

G. D. NDLOVU
*THE REGISTRAR FOR PROTECTION OF NAMES,
UNIFORMS AND BADGES*

I377 02-03-2007

NOTICE

Notice is hereby given that in terms of Section 5 of the Protection of Names, Uniforms and Badges Act No. 10 of 1969, an application made by **MARIA A. HOFFMAN**, of **BOX 4640, MBABANE** in her capacity as a **SECRETARY** of the **ASSOCIATION** has been made for the Grant to Registration of the Name

MBABANE KOMBI & MD - BUS TRANSPORT ASSOCIATION

Any person or persons likely to be affected by the Grant of the Registration may at any time within a period of one month of the publication of this notice, give notice of objection in writing on the prescribed form of objection and send same to the applicant.

G. D. NDLOVU
*REGISTRAR FOR THE PROTECTION OF NAMES,
UNIFORMS AND BADGES*

I381 02-03-2007

NOTICE

APPLICATION FOR LOST TITLE DEED

Notice is hereby given that we intend to apply for a certified copy of Deed of Transfer No. 27/1988 dated 20th January 1988 held by **BEACON INVESTMENTS (SWAZILAND) (PROPRIETARY) LIMITED** in respect of:

CERTAIN : Portion 26 (a portion of Portion 4) of Farm No. 125, situate in the District of Manzini, Swaziland;

MEASURING : 558 (Five Five Eight) square metres.

Any person having objection to the issue of such copy is hereby required to lodge it in writing with the Registrar of Deeds within three (3) weeks from the date of the last publication of this notice.

DATED AT MBABANE ON THIS THE DAY OF 2007.

RJS PERRY
Applicant's attorneys
2nd Floor, Development House
Swazi Plaza
P.O. Box 4869
Mbabane

I348 2x09-03-2007

NOTICE

ESTATE LATE: BONGANI MALEKHENI NTSHINGILA ESTATE NO. EL160/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NTSHINGILA MAKHOSAZANA MARY
P.O. Box 314
Siteki

I380 02-03-2007

ESTATE LATE: SANDILE MATSANDZA MAGONGO ESTATE NO. EP91/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SIPHIWE JOYCE MAGONGO
P.O. Box 60
Ntfontjeni

I386 02-03-2007

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 4156/2006

In the matter between:-

SWAZILAND DEVELOPMENT & SAVINGS
BANK (SWAZI BANK)

Plaintiff

and

SABINA SILAULA

Defendant

NOTICE OF SALE

NOTICE IS HEREBY GIVEN that the under-mentioned property will be sold by public auction by the Deputy Sheriff of the Hhohho Region outside the high Court Building in Mbabane, District of Hhohho, at **11:00a.m. on Friday the 23rd day of March 2007.**

The Property sold is:

- CERTAIN : Remaining extent of Portion 25 (a portion of portion 19) of Farm Malkerns No. 120, situate in the District of Manzini, Swaziland;
- MEASURING : 4,002 (Four Zero Zero Two) square metres;
- HELD : Deed of Transfer No. 641/1995 Registered on the 28th December 1995 subject to servitudes and conditions contained therein;
- RESERVE PRICE : E90,000 (Ninety Thousand).

The conditions of sale, available for inspection at the offices of the Sheriff in the High Court of Swaziland.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE ON THIS 20TH DAY OF FEBRUARY, 2006.

SHERIFF OF SWAZILAND
C/O The High Court of Swaziland
Mbabane

1354 02-03-2007

NOTICE

ESTATE LATE: JABULILE NKULULEKO DLAMINI ESTATE NO. EP11/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SAMUEL DINANE DLAMINI
P.O. Box 49
Mbabane

1388 02-03-2007

NOTICE

ESTATE LATE: NANCY MAMANE NGWENYA ESTATE NO. EM231/1996

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

BABY E. GROENING
P.O. Box 155
Matsapha

I382 02-03-2007

NOTICE

ESTATE LATE: ERIC MVUNDLENI NKALA ESTATE NO. EL133/2003

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

PHILAPHI NKALA
P.O. Box 29
Lobamba

I383 02-03-2007

NOTICE

ESTATE LATE: CHRISTOPHER MUSA VILAKATI ESTATE NO. EP45/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

BABY P. VILAKATI
P.O. Box 73
Piggs Peak

I384 02-03-2007

NOTICE

ESTATE LATE: RICHARD BONGINKOSI MKHABELA ESTATE NO. EM100/2004

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

NTFOMBIYENKHOSI MKHABELA
P.O. Box 68
Mbabane

1385 02-03-2007

NOTICE

ESTATE LATE: SALMON MFUTHEZELI XABA ESTATE NO. ES9/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

MBONGENI XABA
P.O. Box 1399
Manzini

1391 02-03-2007

NOTICE

ESTATE LATE: TENA SITHANI DLAMINI ESTATE NO. EH100/2005

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the Second and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

LOMASONTFO M. DLAMINI
P.O. Box 135
Mbabane

1390 02-03-2007

NOTICE

NOTICE TO ALL CREDITORS OF

JOHN M. McSEVENEY AND ROSEENA McSEVENEY
(In Sequestration)

Notice is hereby given to all the Creditors in the above named Estate, to attend the first meeting of the Creditors at the office of the Master of the High Court, 1st Floor, Miller's Mansion Building, Gwamile Street, Mbabane, on **Thursday the 12th day of APRIL, 2007 at 10:00a.m.**

All Creditors who wish to prove their claims are reminded that they should proceed to the Liquidator's office c/o **Maphanga Howe Masuku Nsibande Attorneys, 1st Floor, Campus Crusade Building, Mahlokohla Street, Mbabane** to collect their forms and must submit them twenty-four (24) hours before the meeting, failing which they will not be permitted to vote at the said meeting.

LUCKY HOWE N.O.
(Trustee)
(LH/M247)

I387 02-03-2007

NOTICE

ESTATE LATE: FELIX MPENDULO NHLABATSI ESTATE NO. ES272/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

PRESIDENT V. NHLABATSI
P.O. Box 3920
Mbabane

I400 02-03-2007

NOTICE

ESTATE LATE: MADINGA DANIEL XABA ESTATE NO. ES270/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SIBONGINKHOSI MKHATSHWA
P.O. Box 97
Hlathikhulu

I401 02-03-2007

NOTICE

Notice is hereby given that we intend applying for a certified copy of: Deed of Transfer No. 136/1957 dated the 26th September 1957 in favour of **ALBA (PROPRIETARY) LIMITED** in respect of:

CERTAIN : Erf No. 104 situate in the Town of Manzini, District of Manzini, Swaziland;
MEASURING : 1983 (One Nine Eight Three) square metres;

Any person having objections to the issue of such copy is hereby requested to lodge it in writing with the Registrar of Deeds within three (3) weeks of the last publication of this notice.

DATED AT MBABANE THIS 26TH DAY OF FEBRUARY, 2007.

ROBINSON BERTRAM
Attorneys for Applicant
P.O. Box 24
Mbabane

I389 2x-09-03-2007

NOTICE

ESTATE LATE: AGNES MATFOBHI MHLANGA ESTATE NO. EH215/2005

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

LUCKY MHLANGA
P.O. Box 448
Ezulwini

I395 02-03-2007

NOTICE

ESTATE LATE: CYPRIAN SIPHO NDZABANDZABA ESTATE NO. EL179/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

DUDU MAGGIE ZIKALALA
P.O. Box 422
Mankayane

I393 02-03-2007

NOTICE

ESTATE LATE: ALEXANDER MANCOBA DLAMINI ESTATE NO. EM378/2006

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

DUDUZILE VICTORIA DLAMINI
P.O. Box 1023
Manzini

I396 02-03-2007

NOTICE

ESTATE LATE: SITHEMBILE GLORIA THEMBA ESTATE NO. EM449/2005

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

ZAKHELE SUKATI
P.O. Box 2015
Manzini

I397 02-03-2007

NOTICE

ESTATE LATE: HAPPINES BUYILE BHEMBE ESTATE NO. EM268/2005

Notice is hereby given in terms of Section 52 bis (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account in the above estate will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his/her objection in writing, in duplicate, with the Master of the High Court at any time before the expiry of the said period.

THAMSANQA B. MDLULI
P.O. Box 550
Bhunya

I398 02-03-2007

NOTICE

ESTATE LATE: HEZEKIEL MAKHANYA ESTATE NO. ES13/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MAKHANYA THULISILE INNOCENTIA
P.O. Box 120
Nhlangano

I394 02-03-2007

NOTICE

ESTATE LATE: SUSAN LOMAKHISIMISI VILAKATI ESTATE NO. ES9/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

TASCORE MFANASIBILI VILAKATI
P.O. Box 68
Mankayane

I399 02-03-2007

NOTICE

Notice is hereby given that we intend applying for a certified copy of: Deed of Transfer No. 79/2003 dated the 12th February 2003 in favour of **REVIVAL LIFE FOUNDATION** in respect of:

CERTAIN : Portion 231 of the Farm Dalriach No. 188 situate in the District of Hhohho, Swaziland;

MEASURING : 6,1527 (Six Comma One Five Two Seven) hectares;

Any person having objections to the issue of such copy is hereby requested to lodge it in writing with the Registrar of Deeds within three (3) weeks of the last publication of this notice.

DATED AT MBABANE THIS 27TH DAY OF FEBRUARY 2007.

ROBINSON BERTRAM
Attorneys for Applicant
P.O. Box 24
Mbabane

I402 2x09-03-2007

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 295/1984, dated the 19th November, 1984 made in favour of: **KLAREN ESTATE LIMITED** (Certificate Incorporation No. 88/1967) in respect of the undermentioned properties:

ONE

CERTAIN : Lot No. 5 situate in Sidwashini South Town Mbabane urban area, District of Hhohho, Swaziland;

MEASURING : 111 (One One One) Square Metres;

TWO

CERTAIN : Lot No. 6 situate in Sidwashini South Town Mbabane urban area, District of Hhohho, Swaziland;

MEASURING : 380 (Three Eight Zero) Square Metres;

Any person having an objection to the issue of such copy by the Registrar is hereby requested to lodge such objection in writing with the Registrar of Deeds, Mbabane within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 27TH DAY OF FEBRUARY, 2007.

M. J. MANZINI & ASSOCIATES

Attorneys for Applicant

3rd Floor, Lilunga House

P.O. Box A204

Swazi Plaza

Mbabane

I392 2x09-03-2007

NOTICE

ESTATE LATE: HERMAN NKOSINATHI NKAMBULE ESTATE NO. EH99/2006

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MABUZA ATTORNEYS

P.O. Box 1134

Mbabane

I373 02-03-2007

NOTICE

IN THE MAGISTRATES COURT FOR THE DISTRICT OF MANZINI

HELD AT MANZINI

CASE NO: 5090/06

In the matter between:

THE MUNICIPAL COUNCIL FOR MANZINI

PLAINTIFF

AND

RIVERSIDE INVESTMENTS (PTY) LTD

DEFENDANT

COURT ORDER

HAVING HEARD COUNCEL for the Plaintiff

AN ORDER IS HEREBY ISSUED

1. Directing the Defendant to pay the sum of E 1 070, 307.50, being in respect of rates owing on Portion 1 of Farm No: 1206 Manzini for the 2004/2005 rateable year.

2. Directing the defendant to pay the above amount at Plaintiffs Attorneys Offices ,Masina Mazibuko and Company, Office No.10, 2nd Floor Presidents Building, Meintjies Street, Manzini

DATED AT MANZINI THIS 13TH DAY OF DECEMBER 2006.

**CLERK OF COURT
MANZINI**

NOTICE

IN THE MAGISTRATES COURT FOR THE DISTRICT OF MANZINI

HELD AT MANZINI

CASE NO: 5090/06

In the matter between:

MUNICIPAL COUNCIL OF MANZINI

PLAINTIFF

AND

RIVERSIDE INVESTMENTS

DEFENDANT

SWORN STATEMENT

I the undersigned

G. N. GULE

In my capacity as Treasurer/Collector of Rates for the Municipal Council of Manzini, make oath and certify in terms of Section 32(2) of the Rating Act, 1995 that:

RIVERSIDE INVESTMENT (PTY) LTD
P.O. Box 48
MANZINI

Is truly indebted to the Municipal Council of Manzini in Respect of the following amounts of Rates taxes and other charges:

TO: Outstanding rates for the year 2004/2005 only E 809 306.16

TO: ADD interest at 15% for the Year only E 121 395.92

SUB TOTAL E 930 702.08

TO: ADD Charge of 15% to cover the cost of Collection E 139 6051.42

Outstanding as at 31/10/2006 E 1 070 307.50

Account No: 71206001

Street Address: REM Farms

Portion 1

Farm No: 1206

The copies of Section 29, 30, 31 and 32 of the Rating Act No 4 1995 are attached as part of this statement.

I pray for entry of judgment in terms Section 32(2) (d) of this Act

.....
Treasurer/Collector of Rates

SWORN BEFORE ME AT MANZINI 12TH DAY OF DECEMBER 2006

.....
COMMISSIONER OF OATHS

.....
THE CLERK OF COURT
MAGISTRATES COURT
MANZINI

(4) The date on which such rate becomes due and payable shall not be affected by reason of any outstanding objection or appeal made under sections 16, 24 or 25 as the case may be:

Provided that if the value of any property is increased or decreased in determining such objection or appeal, the local authority may collect additional rates which may become due by reason of an increase or refund to the owner any difference in the case of a decrease in the value of the property concerned.

Assessment of rates.

28. All rates made and levied by the local authority shall be assessed on the valuation roll or the supplementary valuation roll in operation for the financial year in respect of which such rates are due.

Liability for rates.

29. A rate is a tax upon rateable property and shall be paid at the office of the local authority by the person who is the owner of such property at the time such rate becomes due.

Penalty for late payment of rates.

30. If the owner defaults to pay the rate in terms of section 29 he shall be liable to pay the sum owed plus 15% (fifteen per centum) per annum for each month or part of a month for which the default continues and the percentage payable on default may, by notice in the Gazette, be altered by the Minister:

Provided that, if an explanation for such default is given to the satisfaction of the collector of rates, the collector of rates may agree to waive such penalty either in whole or in part; and
Provided further that, the collector of rates shall render a return to the local authority for the purpose of confirmation in respect of such waiver on a quarterly basis.

Recovery of rate.

31. (1) As soon as reasonably possible after the publication of the notice referred to in section 27, the collector of rates shall issue to the owner of every rateable property included in the valuation roll a notice -

- (a) stating the amount of the rate owing and the date on which the rate is due and payable;
- (b) setting out the description of such property and the value thereof as shown in the valuation roll; and
- (c) drawing the attention of the owner to the provisions of section 30 relating to the penalty for late payment of rate:

Provided that a person who is the owner of rateable property on the first day of each financial year shall be liable, assessed and levied with that financial year's rates relating to that rateable property; and

Provided further than in the event of a sale and transfer of the rateable property during the financial year, the seller or transferor shall have legal recourse to recover from the buyer or transferee the proportion of rates thereby prepaid, and this shall lie as a claim against the buyer or transferee of the rateable property.

(2) The collector of rates shall issue a notice, in terms of subsection (1), to every person who becomes liable to pay new or increased rates by reason of sections 7(4) or 24(1).

(3) If the owner of any property fails to pay the rate or any part thereof, owing in respect of the property, on or before the expiry of one month from the date on which such rate becomes due, a final demand in writing shall be made by the collector of rates and served on the owner requiring him to pay the amount stated therein within fourteen days of the service thereof.

Legal proceedings for recovery of rates.

32. (1) As soon as is reasonably possible after the expiry of two months from the date on which the rate became due and payable, the collector of rates shall render a return to the local authority setting forth the names of all owners of property in default and the amounts of rates owing by each; and thereupon such local authority may cause legal proceedings to be instituted for the recovery of the amounts of the rates owing and any penalties accruing thereon, together with a charge at the rate of fifteen per centum of the amount owing at the commencement of proceedings to cover the cost of collection in addition to costs allowed in such proceedings:

Provided that such proceedings shall be instituted within two years of the date on which such rate became due and payable, unless the Minister, at the request of the local authority, authorises it to defer the institution of the proceedings generally or in particular cases for such period as he may determine.

(2) The proceedings for the recovery of rates shall comply with the following -

- (a) the local authority shall file with the clerk of the court a statement certified by the treasurer, on oath, setting forth the amount of rates payable by the owner;
- (b) a copy of such statement shall be posted by the treasurer to the owner on the same day as the statement is filed with the clerk of such court;
- (c) the statement referred to in paragraphs (a) and (b) shall contain a copy of the provisions of this subsection and sections 29, 30 and 31; and
- (d) upon receipt of such statement, the clerk of such court shall enter judgment in the records of such court in favour of the local authority against the owner.

(3) If any rate, or part of any rate, remains unpaid after the end of the financial year for which it was levied, and for the satisfaction of which no sufficient execution can be made

- (a) after the expiry of such financial year, the local authority shall cause to be inserted, in the Gazette and in at least one newspaper circulating in Swaziland, particulars of every such property and of the rates payable together with a notice requiring the owner, by name, if known, or otherwise whom it may concern, to make payment of such amount, and any accruing penalties thereon, within two months from the date of publication of such notice in the Gazette, or newspaper and stating that, in default thereof, application will be made to court to order such property to be sold at public auction (subject to such further notice, if any, as the court deems necessary).

NOTICE

IN THE MAGISTRATES COURT FOR THE DISTRICT OF MANZINI

HELD AT MANZINI

CASE NO: 5092/06

In the matter between:

THE MUNICIPAL COUNCIL FOR MANZINI

PLAINTIFF

AND

RIVERSIDE INVESTMENT (PTY) LTD

DEFENDANT

COURT ORDER

HAVING HEARD COUNSEL for the Plaintiff

AN ORDER IS HEREBY ISSUED

1. Directing the defendant to pay the sum of E 1 029 033.49, being in respect of rates owing on Portion 1 of Farm No: 1206 Manzini for the 2004/2005 rateable year.
2. Directing the defendant to pay the above amount at plaintiffs Attorneys offices ,Masina Mazibuko and Company, Office No.10, 2ND Floor Presidents Building, Meintjies Street, Manzini

DATED AT MANZINI THIS 13TH DAY OF DECEMBER 2006.

**CLERK OF COURT
MANZINI**

NOTICE

IN THE MAGISTRATES COURT FOR THE DISTRICT OF MANZINI
HELD AT MANZINI CASE NO: 5092/06
In the matter between:
MUNICIPAL COUNCIL OF MANZINI PLAINTIFF
AND
RIVERSIDE INVESTMENTS DEFENDANT

SWORN STATEMENT

I the undersigned

G. N. GULE

In my capacity as Treasurer/Collector of Rates for the Municipal Council of Manzini, make oath and certify in terms of Section 32(2) of the Rating Act, 1995 that:

RIVERSIDE INVESTMENT (PTY) LTD
P.O. Box 48
MANZINI

Is truly indebted to the Municipal Council of Manzini in Respect of the following amounts of Rates taxes and other charges:

TO: Outstanding rates for the year 2004/2005 only	E 778 097.16
TO: ADD interest at 15% for the Year only	E 116 714.57
SUB TOTAL	<u>E 894 811.73</u>
TO: ADD Charge of 15% to cover the cost of Collection	<u>E 134 221.75</u>
Outstanding as at 31/10/2006	<u>E 1 029 033.49</u>

Account No: 71206001

Street Address: REM Farms

Remainder

Farm No: 1206

The copies of Section 29, 30, 31 and 32 of the Rating Act No 4 1995 are attached as part of this statement.

I pray for entry of judgment in terms Section 32(2) (d) of this Act

.....
Treasurer/Collector of Rates

SWORN BEFORE ME AT MANZINI 11TH DAY OF DECEMBER 2006

.....
COMMISSIONER OF OATHS

.....
THE CLERK OF COURT
MAGISTRATES COURT
MANZINI

(4) The date on which such rate becomes due and payable shall not be affected by reason of any outstanding objection or appeal made under sections 16, 24 or 25 as the case may be:

Provided that if the value of any property is increased or decreased in determining such objection or appeal, the local authority may collect additional rates which may become due by reason of an increase or refund to the owner any difference in the case of a decrease in the value of the property concerned.

Assessment of rates.

28. All rates made and levied by the local authority shall be assessed on the valuation roll or the supplementary valuation roll in operation for the financial year in respect of which such rates are due.

Liability for rates.

29. A rate is a tax upon rateable property and shall be paid at the office of the local authority by the person who is the owner of such property at the time such rate becomes due.

Penalty for late payment of rates.

30. If the owner defaults to pay the rate in terms of section 29 he shall be liable to pay the sum owed plus 15% (fifteen per centum) per annum for each month or part of a month for which the default continues and the percentage payable on default may, by notice in the Gazette, be altered by the Minister:

Provided that, if an explanation for such default is given to the satisfaction of the collector of rates, the collector of rates may agree to waive such penalty either in whole or in part; and
Provided further that, the collector of rates shall render a return to the local authority for the purpose of confirmation in respect of such waiver on a quarterly basis.

Recovery of rate.

31. (1) As soon as reasonably possible after the publication of the notice referred to in section 27, the collector of rates shall issue to the owner of every rateable property included in the valuation roll a notice -

- (a) stating the amount of the rate owing and the date on which the rate is due and payable;
- (b) setting out the description of such property and the value thereof as shown in the valuation roll; and
- (c) drawing the attention of the owner to the provisions of section 30 relating to the penalty for late payment of rate:

Provided that a person who is the owner of rateable property on the first day of each financial year shall be liable, assessed and levied with that financial year's rates relating to that rateable property; and

Provided further than in the event of a sale and transfer of the rateable property during the financial year, the seller or transferor shall have legal recourse to recover from the buyer or transferee the proportion of rates thereby prepaid, and this shall lie as a claim against the buyer or transferee of the rateable property.

(2) The collector of rates shall issue a notice, in terms of subsection (1), to every person who becomes liable to pay new or increased rates by reason of sections 7(4) or 24(1).

(3) If the owner of any property fails to pay the rate or any part thereof, owing in respect of the property, on or before the expiry of one month from the date on which such rate becomes due, a final demand in writing shall be made by the collector of rates and served on the owner requiring him to pay the amount stated therein within fourteen days of the service thereof.

Legal proceedings for recovery of rates.

32. (1) As soon as is reasonably possible after the expiry of two months from the date on which the rate became due and payable, the collector of rates shall render a return to the local authority setting forth the names of all owners of property in default and the amounts of rates owing by each; and thereupon such local authority may cause legal proceedings to be instituted for the recovery of the amounts of the rates owing and any penalties accruing thereon, together with a charge at the rate of fifteen per centum of the amount owing at the commencement of proceedings to cover the cost of collection in addition to costs allowed in such proceedings:

Provided that such proceedings shall be instituted within two years of the date on which such rate became due and payable, unless the Minister, at the request of the local authority, authorises it to defer the institution of the proceedings generally or in particular cases for such period as he may determine.

(2) The proceedings for the recovery of rates shall comply with the following -

- (a) the local authority shall file with the clerk of the court a statement certified by the treasurer, on oath, setting forth the amount of rates payable by the owner;
- (b) a copy of such statement shall be posted by the treasurer to the owner on the same day as the statement is filed with the clerk of such court;
- (c) the statement referred to in paragraphs (a) and (b) shall contain a copy of the provisions of this subsection and sections 29, 30 and 31; and
- (d) upon receipt of such statement, the clerk of such court shall enter judgment in the records of such court in favour of the local authority against the owner.

(3) If any rate, or part of any rate, remains unpaid after the end of the financial year for which it was levied, and for the satisfaction of which no sufficient execution can be made

- (a) after the expiry of such financial year, the local authority shall cause to be inserted, in the Gazette and in at least one newspaper circulating in Swaziland, particulars of every such property and of the rates payable together with a notice requiring the owner, by name, if known, or otherwise whom it may concern, to make payment of such amount, and any accruing penalties thereon, within two months from the date of publication of such notice in the Gazette, or newspaper and stating that, in default thereof, application will be made to court to order such property to be sold at public auction (subject to such further notice, if any, as the court deems necessary).

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SUPPLEMENT TO

THE

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PUBLISHED BY AUTHORITY

THE INCOME TAX (AMENDMENT) BILL, 2007
(Bill No. 3 of 2007)

(To be presented by the Minister of Finance)
MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to amend the Income Tax Order 1975, so as to provide for -

- (a) the taxation of amounts derived by an employee under an employee share acquisition scheme, including any gain derived by an employee on disposal of a right or option to acquire shares under such scheme;
- (b) the addition of new definitions of "amateur sporting association", "branch", "employee share acquisition scheme", and "trading stock";
- (c) the introduction of a secondary rebate for taxpayers over the age of 60 years in any year of assessment as well as an increase in the primary rebate for all individual taxpayers;
- (d) the deduction of an contributions, grants or donations made by any person to specific projects approved by NERCHA for providing financial and material assistance to orphans and vulnerable children (OVCs);
- (e) the taxation of income from trusts and beneficiaries of trusts who have a vested a right on income derived for their immediate and future benefit;
- (f) a withholding tax on rental payments for the use or occupation or the right of use or occupation of land or buildings, or collection of such rent for or on behalf of any person;
- (g) a withholding tax on the distribution of income from a trust to any ascertained beneficiary who has a vested right to such income in any year of assessment;
- (h) a requirement that every person entering into an agreement with a non-resident person must notify the Commissioner of such agreements; and
- (i) enabling powers to the Commissioner to institute proceedings for the sequestration of the estate of any taxpayer;
- (j) the rendering of reciprocal assistance in the collection of taxes with any country that Swaziland has a tax treaty with;
- (k) the increase and rationalisation of the various offences provisions in the Order; and
- (l) other matters consequential or incidental thereto.

M. J. DLAMINI
ATTORNEY-GENERAL

A BILL
Entitled

An Act to amend the Income Tax Order 1975.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement

1. This Act may be cited as the Income Tax (Amendment) Act, 2007, shall be read as one with the Income Tax Order, 1975, (hereinafter referred to as the "Order"), and shall come into operation on such date as the Minister may, by Notice published in the Gazette, determine.

Amendment of section 2

2. Section 2 of the Order is amended -

(a) by adding, in the alphabetical order, the following new definitions -

"amateur sporting association" means an association whose sole or main object is to foster or control any athletic sport or game and whose members consist only of amateur sports persons or affiliated associations, the members of which consist only of amateur sports persons";

"branch" means a place where a person carries on business, and includes -

(a) a place where a person is carrying on business through an agent, other than a general agent of independent status acting in the ordinary course of business as such; or

(b) a place where a person has, is using, or is installing substantial equipment or substantial machinery; or

(c) a place where a person is engaged in a construction, assembly, or installation project, including a place where a person is conducting supervisory activities in relation to such a project;"

"employee share acquisition scheme" means an agreement or arrangement under which -

(a) a company is required to issue shares in the company to employees of the company or of an associated company; or

(b) a company is required to issue shares to a trustee of a trust and under the trust deed the trustee is required to transfer the shares to employees of the company or of an associated company;"

"trading stock" included -

(a) anything -

(i) produced, manufactured, constructed, assembled, purchased or otherwise acquired for the purposes of manufacture, sale or exchange, or

(ii) the proceeds from the disposal of which forms or will form part of gross income;

- (b) any consumable stores and spare parts acquired by him to be used or consumed in the course of his trade;" and
- (b) in the definition of "exempt organisation", by replacing the words "amateur sporting organisation" with the words "amateur sporting association".

Amendment of section 7

3. Section 7 of the Order is amended -

- (a) by inserting immediately after paragraph (1) the following new paragraphs -

- (m) an amount by which the value of shares issued to an employee under an employee share acquisition scheme at the date of issue exceeds the consideration, if any, given by the employee for the shares, including any amount given as consideration for the grant of a right or option to acquire the shares;
- (n) an amount of any gain derived by an employee on disposal of a right or option to acquire shares under an employee share acquisition scheme;"

- (b) by renumbering paragraph (m) as paragraph (o).

Amendment of section 8

4. Section 8 of the Order is amended, in subsection (1), by replacing paragraph (a) with the following new paragraph (a) -

"(a) way of a rebate,

- (i) an amount not exceeding the sum of three thousand Emalangeni in any year of assessment; and
- (ii) an additional amount not exceeding one thousand two hundred emalangeni if the person is over the age of sixty years on the last day of the year of assessment:

Provided that no reduction shall be made under this subsection if the tax payable in terms of section 6 is subject to the rates of tax prescribed in Part III of the Third Schedule."

Amendment of section 11

5. Section 11 of the Order is amended, by deleting subsection (11) in its entirety.

Insertion of new section 11bis

6. The Order is amended by, inserting the following new section 11bis. immediately after section 11-

"Trading Stock

11bis. (1) There shall be taken into account, in the determination of the taxable income derived by any person, during any year of assessment, from carrying on any trade (other than farming), the value of all trading stock held and not disposed of by him (hereinafter

referred to as "the value of trading stock held") at the beginning and end of each year of assessment.

(2) The cost of trading stock disposed of during the year of assessment is determined by adding to the opening value of trading stock the cost of trading stock acquired during year, and subtracting the closing value of trading stock.

(3) The value of trading stock held by any person at the beginning of any year of assessment shall be deemed to be -

- (a) where the person carried on trade on the last day of the previous year of assessment, the value of trading stock held on that date; or
- (b) where the person commenced the trade during the year of assessment, the cost to the person of any stock acquired prior to the commencement of the trade.

(4) The value of trading stock held at the end of year of assessment shall be deemed to be the lower of cost or market value to the person carrying on the trade.

(5) For the purposes of this subsection, the cost of any trading stock in relation to any date shall be -

- (a) the cost incurred in acquiring such trading stock; and
- (b) any further costs incurred up to such date in getting such trading stock into its then existing condition or location.

(6) Where any trading stock has been acquired by any person -

- (a) for a consideration which cannot be valued; or
- (b) otherwise than by way of a transaction at arm's length,

such trading stock shall be deemed to have been acquired at a cost equal to the price which, in the opinion of the Commissioner, was the current market price of such trading stock on the date of acquisition.

(7) Where particular items of trading stock are not readily identifiable, a person may account for that trading stock on the first-in-first-out method or the average-cost method but, once chosen, a stock valuation method may be changed only with the written permission of the Commissioner."

Amendment of section 14

7. Section 14 of the Order is amended, in subsection (1) -

(a) by inserting the following new subsection (u) immediately after subsection (t) -

"(u) any contribution or donation or grant or gift made by any person during the year of assessment to an amateur sporting association, charity or educational institution of a public character within the definition of "exempt organisation":

Provided that the amount of deduction allowed under this subsection for a year of assessment shall not exceed 5 per centum of the person's taxable income calculated before taking into account the deduction under this section.

For the purpose of this subsection, the value of a gift of property is the lesser of -

- (a) the value of the property at the time of the making of the gift; or
- (b) the consideration paid by the person for the property;”
- (c) by replacing subsection (z) with the following new subsection (z) -
 - (z) any contribution, whether in cash or in kind, made by a taxpayer and actually paid or transferred during the year of assessment to any national disaster scheme or national emergency body established by the government;

provided that contributions made to the National Emergency Response Council on HIV and Aids (hereinafter referred to as “NERCHA”) either for a specific project or to provide financial and material assistance to orphans and vulnerable children such contributions shall only be deductible if the project or assistance has been approved by NERCHA.

Insertion of a new section 19bis

8. The Order is amended by, inserting the following new section 19bis. immediately after section 19 -

“Income of Trusts and Beneficiaries

19bis.. (1) ANy income received by or accrued to or in favour of any person during the year of assessment in his capacity as a trustee of a trust shall, to the extent that such income has been derived for the immediate or future benefit of any ascertained beneficiary with a vested right to such income be included in the gross income of the beneficiary.

(2) Subsection (1) does not apply to -

- (a) income which has been subject to withholding tax on payment into the trust and, if it had been received by or accrued directly to the beneficiary, the withholding tax would be a final tax; or

(b) an incapacitated person’s trust, in that case subsection (5) applies.

(3) Where a beneficiary has acquired a vested right to any income referred to in subsection (1) as a result of the exercise by the trustee of a discretion vested in the trustee under a deed of trust, arrangement, or will of a deceased person, such income is deemed to have been derived for the benefit of a beneficiary.

(4) A beneficiary shall be allowed a deduction in accordance with this Order for any expenditure or losses incurred by the trustee in deriving the income included in the gross income of the beneficiary under subsection (1).

(5) A trustee is liable for tax on the taxable income of a trust.

(6) The taxable income of a trust is so much of the income of the trust as is not included in the gross income of a beneficiary under subsection (1) or exempted under subsection (2)(a), less all deductions allowed in accordance with this Order for expenditure or losses incurred in deriving that income.

(7) Trustees are jointly and severally liable for a tax liability arising in respect of taxable income of a trust that is not satisfied from trust assets; but any trustee required to meet such liability is entitled to a contribution from each of the other trustees."

Insertion of new Division VIII and IX under Part III

9. Part III of the Order is amended by, inserting the following new Divisions VIII and IX immediately after section 32E -

"DIVISION VIII - RENTAL PAYMENTS

Withholding tax from rental payments

32F. (1) Every person, other than a natural person, who -

(a) makes a payment to the lessor (excepting a company) for the use or occupation or the right of use or occupation of land or buildings; or

(b) collects such rent for or on behalf of the lessor,

shall withhold tax at the rate of ten per cent of the gross amount.

(2) The tax withheld under subsection (1) shall be on account of the liability to tax of the lessor on the profits derived from the letting of the property.

(3) Every person who has withheld any tax under subsection (1) shall -

(a) within fifteen days from the date of payment remit to the Commissioner the amount of tax so withheld.

(b) furnish within thirty days after the end of the year of assessment to the person to whom the payment is made a certificate, showing the amount of the payment made and the tax withheld during the year of assessment.

(4) Every person making any payment (of rent) to which this section applies shall maintain a record showing in relation to each year of assessment -

(a) the payment of rent made to the lessor;

(b) the tax withheld from such payment,

and such record shall be kept for the period specified under section 35bis (3) for examination by the Commissioner as and when required.

(5) The deduction of tax under this section shall not relieve the lessor from the obligation to furnish a return for the assessment of the tax or any return as provided under section 33 or from any other obligation imposed by this Order.

(6) A person who fails to withhold any tax under subsection (1) or having withheld such tax fails to remit such tax to the Commissioner, as required under subsection (3)(b), shall, in addition to any penalty for which he may be liable under section 66, be personally liable to pay the Commissioner that amount of tax as if it were tax due and payable by such person under Part VII of this Order."

"DIVISION IX - PAYMENTS TO BENEFICIARIES OF TRUSTS

Withholding tax on payments to beneficiaries of trusts

32G. (1) Every trustee who makes any payment from trust income to a beneficiary who has a vested right to such income shall withhold tax at the rate of thirty-three per cent of the gross amount.

(2) The tax withheld under subsection (1) shall be on account of the liability to tax of such beneficiary on the income derived from the trust.

(3) Every trustee who has withheld any tax under subsection (1) shall-

- (a) within fifteen days from the date of payment remit to the Commissioner the amount of tax so withheld.
- (b) furnish within thirty days after the end of the year of assessment to the beneficiary to whom the payment is made a certificate, showing the amount of the payment made and the tax withheld during the year of assessment;

(4) Every trustee making any payment to which this section applies shall maintain a record showing in relation to each year of assessment -

- (a) the payment made to each beneficiary; and
- (b) the tax withheld from such payment,

and such record shall be kept for the period specified under section 35bis (3) for examination by the Commissioner as and when required.

(5) The deduction of tax under this section shall not relieve a beneficiary from the obligation to furnish a return for the assessment of the tax or any return as provided under section 33 or from any other obligation imposed by this Order.

(6) A trustee who fails to withhold any tax under subsection (1) or having withheld such tax fails or remit such tax to the Commissioner, as required under subsection (3)(a), shall, in addition to any penalty for which he may be liable under section 66, be personally liable to pay the Commissioner that amount of tax as if it were tax due and payable by such person under Part VII of this Order."

Insertion of a new section 59C

10. The Order is amended by, inserting the following new section 59C immediately after section 59B -

"Notification to the Commissioner on agreements entered into with non-resident persons"

59C. Every person who enters into an agreement with a non resident person, as defined in section 59, for services to be performed or rendered in Swaziland under which payments (other than payments to which the Second Schedule applies) will be made to a non resident person shall, within thirty days of the date of entering into such agreement, notify the Commissioner in writing of -

- (a) the nature of such agreement;

- (b) the commencement and likely duration of the agreement;
- (c) the total amount estimated to be payable under the agreement to the non-resident person; and,
- (d) the name, postal and physical address of the non-resident person to whom payments under the agreement will accrue."

Amendment of section 61

11. Section 61 of the Order is amended by, inserting the following a new subsection (4) immediately after subsection (3) -

- " (4) The Commissioner may institute proceedings for the sequestration of the estate of any taxpayer and shall for the purposes of such proceedings be deemed to be the creditor in respect of any tax due by such taxpayer and any interest payable by him"

Insertion of a new section 61bis.

12. The Order is amended by, inserting the following new section 61bis. immediately after section 61 -

"Collection of taxes under Agreements made under section 68

61bis. (1) Where an international agreement provides for reciprocal assistance in the collection of taxes and the Commissioner has received a request from another country pursuant to that agreement for the collection from any person in Swaziland of an amount due by that person under the income tax laws of that other country, the Commissioner may by notice in writing require the person to pay the amount on the date specified in the notice to the Commissioner for transmission to the competent authority in that other country.

(2) If a person fails to comply with a notice issued under subsection (1), the amount in question may be recovered for transmission to the competent authority in that other country as if it were tax payable by the person under this Order."

Amendment of section 64

13. Section 64 of the Order is amended by, replacing section 64 with the following new section 64 -

"Refunds and set off

64. (1) Any amount paid by any person in terms of the provisions of this Order shall be refundable to the extent that such amount exceeds -

- (a) in the case where the amount was paid in respect of assessment, the amount so assessed; or

- (b) in any other case, the amount properly chargeable under this Order.

(2) The Commissioner shall not authorise a refund under subsection (1)(b), where -

- (a) that amount was paid in accordance with the practice generally prevailing at the date of the payment; or

(b) the refund is claimed by that person -

- (i) after a period of three years after the end of that year of assessment, in the case where -
 - (a) that amount constitutes an amount of employees' tax withheld during any year of assessment from the remuneration of that person under the provisions of the Second Schedule;
 - (b) that person's income for that year of assessment consisted solely of remuneration as defined in the Second Schedule;
 - (c) that person was not required under any provision of this Order to furnish a return of income for that year of assessment and did not render such a return during the period of three years since the end of that year of assessment; or
- (ii) in any other case, after a period of three years from the date of the official receipt acknowledging such payment or, where more than one such payment was made, the date of the official receipt acknowledging the latest of such payments.

(3) Where any refund contemplated in subsection (1) is due to any person who has failed to pay any amount of tax, additional tax, duty, levy, charge, interest or penalty levied or imposed under this order or any other law administered by the Commissioner, within the period prescribed for payment of the amount, the Commissioner may set off against the amount which the person has failed to pay, any amount which has become refundable to the person under this section."

Amendment of section 66

14. Section 66 of the Order is amended by, replacing section 66 with the following new section 66 -

"Offences.

66 (1) A person who -

- (a) fails or neglects to furnish, file or submit any return or document as and when required by or under this Order;
 - (b) without just cause shown by him, refuses or neglects to -
 - (i) furnish, produce or make available any information or document;
 - (ii) reply to or answer truly and fully, any questions put to him;
 - (iii) produce any books or papers required of him by the Commissioner or any officer; or,
 - (iv) attend and give evidence,
- as when required in terms of this Order;

- (c) fails to show in any return made by him any portion of the gross income received by or accrued to or in favour of himself or fails to disclose to the Commissioner when making such return any material facts which should have been disclosed;
- (d) fails to show in any return prepared or rendered by him on behalf of any other person any portion of the gross income received by or accrued to or in favour of such other person or fails to disclose to the Commissioner, when preparing or making such return, any facts which if so disclosed, might result in increased taxation;
- (e) obstructs or hinders any officer in the discharge of his duties under this Order;
- (f) holds himself out as an officer engaged in carrying out the provisions of this Order;
- (g) submits or furnishes a false certificate or statement under section 34;
- (h) fails to keep a proper record of his transactions as required by section 35bis;
- (i) without just cause fails to comply with the provisions of section 49, where that person has been declared to be the agent of any other person as contemplated in that section;
- (j) without just cause fails to comply with the provisions of section 5, 34ter, 36 or 59C; or
- (k) not being a person whose gross income consists solely of salary, wages or similar compensation for personal services, without just cause shown by him, fails to retain for a period of five years from the date of the last entry therein all ledgers, cash books, journals, cheque books, paid cheques, bank statements, invoices, stock list and all other books of account relating to any trade carried on by him and recording the details from which returns for the assessment of taxes under this Order were prepared,

commits an offence and shall be liable on conviction to a fine not exceeding ten thousand emalangeni or to imprisonment for a term not exceeding one year or to both such fine and term of imprisonment.

(2) A person who -

- (a) fails to withhold, remit and account for any withholding tax imposed under this Order;
- (b) fails to comply with the provisions of section 32E; or
- (c) has in any manner, evaded or defeated, or attempted to evade or defeat, tax imposed by this Order, or the payment or collection of such tax,

commits an offence and, in addition to any penalty otherwise provided, shall be liable on conviction to a fine not exceeding fifty thousand emalangeni or to imprisonment for a term not exceeding five years or to both such fine and term of imprisonment.

(3) A person who has been convicted under subsection (1) or subsection (2) of failing to furnish any return, information or reply who thereafter fails within any period deemed by the Commissioner to be reasonable and of which notice has been given to him by the

Commissioner, to furnish the return, information or reply in respect of which the offence was committed, commits an offence and shall be liable, on conviction, to a fine of fifty emalangeni for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding one year.

(4) A person who, with intent to evade or to assist any other person to evade assessment or taxation -

- (a) makes or causes or allows to be made any false statement of entry in any return rendered in terms of this Order or signs any statement or return so rendered without reasonable grounds for believing it to be true;
- (b) gives any false answer, whether orally or in writing, to any request for information made under this Order by the Commissioner or any person duly authorised by him or any officer referred to in section 4;
- (c) prepares or maintains or authorises the preparation or maintenance of any false books of account or other records or falsifies or authorises the falsification of any books of account or records; or
- (d) makes use of any fraud, art or contrivance whatsoever, or authorises the use of any such fraud, art contrivance,

commits an offence and, in addition to any penalty otherwise provided, shall be liable, on conviction, to a fine not exceeding fifty thousand emalangeni or to imprisonment for a term not exceeding five years or to both such fine and term of imprisonment.

(5) if, in any proceeding under this section it is proved that any false statement or entry is made in any return rendered under this Order by or on behalf of any taxpayer or in any books of account or other records of any taxpayer, such taxpayer shall be presumed, until the contrary is proved, to have made or to have caused or allowed to be made such false statement or entry with intent to evade assessment or taxation, and any other person who made any such false statement or entry shall be presumed, until the contrary is proved, to have made such false statement or entry with intent to assist the taxpayer to evade assessment or taxation.

(6) The Commissioner may transfer information or documents concerning any person to the Director of Public Prosecutions to enable the Director to bring charges against the person in respect of an offence set out in this section.'

Amendment of the Second Schedule

15. The Second Schedule to the Order is amended by, replacing paragraph 19 with the following new paragraph 19 -

"Offences

19. (1) A person who -

- (a) makes or becomes liable to make any payment of remuneration and fails to deduct or withhold therefrom any amount of employees' tax or to pay such amount to the Commissioner as and when required by paragraph 2;
- (b) uses or applies any amount deducted or withheld by him by way of employees' tax for purposes other than the payment of such amount to the Commissioner,

- (c) makes or issues or causes to be made or issued or knowingly possesses or uses or causes to be used any employees' tax certificate which is false;
- (d) Alters any employees' tax certificate made or issued by any other person or authority or falsely pretends to be the employee named in any employees' tax certificate or for his own advantage or benefit obtains credit with respect to or payment of the whole or any part amount of employees tax deducted or withheld remuneration received by another person; or
- (e) not being an employer and without being duly authorized by any person who is an employer, issues or causes to be issued any document purporting to be an employees' tax certificate,

commits an offence and, in addition to any penalty otherwise provided, shall be liable on conviction to a fine not exceeding fifty thousand emalangeni or to imprisonment for a term not exceeding five years or to both such fine and term of imprisonment.

(2) A person who -

- (a) without just cause shown by him, fails to comply with any directive issued to him by the Commissioner in terms of paragraph 9(3) and 11;
- (b) furnishes to his employer or the Commissioner a false or misleading return of personal particulars or gives any false information or misleads his employer in relation to any matter affecting the amount of employees' tax to be deducted in his case;
- (c) fails or neglects to deliver to any employee or former employee any employees' tax certificate as required by paragraph 13;
- (d) fails to comply with any conditions prescribed by the Commissioner in terms of paragraph 13(11) in regard to the manner in which employees' tax certificates may be used or as to be surrender of unused stocks of such certificates or to account for used, unused or spoiled employees' tax certificates when required by the Commissioner under such paragraph or on ceasing to be an employer fails to surrender unused employees' tax certificates in his possession as required by subparagraph (13) of such paragraph;
- (e) fails to comply with any condition prescribed by the Commissioner by which he is bound in terms of paragraph 13(12);
- (f) fails or neglects to maintain any record as required by paragraph 14 or to retain such record for a period of five years from the date of the last entry therein or to furnish to the Commissioner any declaration as required by such paragraph;
- (g) fails or neglects to apply to the Commissioner for registration as an employer as required for paragraph 15(1) or having so applied fails or neglects to notify the Commissioner of any change of address or the fact of his having ceased to be an employer as required by sub-paragraph (2) of such paragraph,

commits an offence and shall be liable on conviction to a fine of not more than ten thousand emalangeni or to imprisonment for a term not exceeding one year or to both such fine and term of imprisonment."

Amendment of the Third Schedule

16. The Third Schedule to the Order is amended -

(a) by replacing Part II with the following new Part II -

“Part II

Rates of normal tax in the case of persons other than companies shall be -

Taxable Income		Rate of Tax
Exceeds	But does not Exceed	
E	E	E
0	33 000	0+12% of the excess over 0
33 000	49 500	3 960+20% of the excess over 33 000
49 500	66 000	7 260+25% of the excess over 49 500
66 000	82 500	11 385+30% of the excess over 66 000
82 500		16 335+33% of the excess over 82 500”

(b) in Part III, by replacing Part III with the following new Part III -

“Part III

Rates of normal tax in the case of a redundant or retiring individual shall be -

Taxable Income		Rate of Tax
Exceeds	But does not Exceed	
E	E	E
0	60 000	0+12% of the excess over 0
60 000	120 000	7 200+20% of the excess over 60 000
120 000	180 000	19 200+25% of the excess over 120 000
180 000	240 000	34 200+30% of the excess over 180 000
240 000		52 200+33% of the excess over 240 000”

Amendment of the Fourth Schedule

17. The Fourth Schedule to the Order is amended in paragraph 16 by, replacing the words “one thousand emalangeni” which occur immediately after the word “exceeding” before the words “or to imprisonment” with the words “ten thousand emalangeni”.

THE EMPLOYMENT BILL, 2007

(BILL NO. 4 OF 2007)

(To be presented by the Minister of Enterprise and Employment)

MEMORANDUM OF OBJECTS AND REASONS

The objects of this Bill are to -

- (a) regulate employment;
- (b) harmonise the laws governing employment and labour relations
- (c) improve the status of employers and employees;
- (d) encourage new investment opportunities and consolidate existing business;
- (e) enact employment legislation that conforms to international labour standards;
- (f) repeal the Employment Act, 1980; and
- (g) regulate matters incidental to employment.

J. M. DLAMINI
ATTORNEY GENERAL

**A BILL
ENTITLED**

An Act to establish minimum conditions of employment, to consolidate the law in relation to employment, to improve the status of employers and employees and to comply with international law obligations of the Kingdom of Swaziland as a member State of the International Labour Organization.

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PART I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Employment Act, 2007 and comes into effect on a date to be fixed by the Minister by notice in the Gazette.

(2) The Minister may designate different dates for the coming into operation of different Parts or provisions of this Act.

Interpretation

2. In this Act, unless the context indicates otherwise:

“approved form” means a form, register or record approved by the Commissioner of Labour for the purposes of this Act;

“attesting officer” means an administrative officer or inspector or an officer designated as such by the Minister in writing;

“business” includes any trade, enterprise, undertaking or establishment;

“calendar year” means the period commencing on the 1 January and ending on the following 31 December;

“chief” has the meaning ascribed to it by the Swazi Administration Act, 1950 or its successor;

“child” means a person under the age of 15 years;

“collective agreement” means an agreement in writing covering terms and conditions of employment and procedures for the settlement of disputes and grievances, concluded by a Joint Negotiation Council, or by an employer, a group of employers, or an employers’ association on the one hand and a trade union or staff association on the other hand;

“CMAC” means the Conciliation, Mediation and Arbitration Commission established under Part VIII of the Industrial Relations Act, 2000;

“Commissioner ” means any person appointed as the Commissioner of Labour or any other person acting in the capacity of the Commissioner of Labour;

“competent person” means a person possessing qualifications, skill or experience necessary for some purpose under this Act;

“competent authority” has the meaning ascribed to it by the Swazi Administration Act, 1950; or its successor

“confinement” means -

- (a) labour resulting in the birth of a living child; or
- (b) labour after 28 weeks of pregnancy resulting in the birth of a child, living or dead;

“continuous employment” means a period of unbroken service with the same employer, except that for the purposes of this definition, all or any of the following do not constitute a break in service-

- (a) absence from work due to sickness, injury or maternity certified by a medical practitioner;
- (b) absence from work due to a dispute where the employee resumes employment on the next working day following the settlement of the dispute;
- (c) absence from work due to a temporary cessation of work in the undertaking;
- (d) absence from work on leave or for any other cause approved by the employer; or
- (e) absence from work due to protest action that complies with the Industrial Relations Act, 2000, and “continuously employed” has a corresponding meaning;

“contract” in Part XVIII means a public contract;

“contract of employment” means a contract of service, apprenticeship or traineeship whether it is express or implied and, if it is express, whether it is oral or in writing;

“contractor” means-

- (a) in respect of this Act in general, an employee working under a contract for services;
- (b) in relation to a principal, a person who has contracted directly with a principal to perform any work for that principal; or,
- (c) in Part XVIII, a contractor within the general meaning assigned to the work who has entered into a public contract; and the term “sub-contractor” has a corresponding meaning;

“disciplined forces” has the same meaning as provided in section 39 of the Constitution of the Kingdom of Swaziland (Act 1 of 2005);

“dispute” means any dispute over-

- (a) the entitlement of any person or group of persons to any benefit under an existing collective agreement, or works council agreement;
- (b) the existence or non-existence of a collective agreement or works council agreement;
- (c) the dismissal, employment, suspension from employment, re-employment or reinstatement of any person or group of persons;
- (d) the recognition or non-recognition of an organisation seeking to represent employees in the determination of their terms and conditions of employment;
- (e) the application or the interpretation of any law relating to employment; or
- (f) the terms and conditions of employment of any employee or the physical conditions under which that employee may be required to work;

“domestic worker” includes any person employed for wages in or about a private dwelling house by the owner or occupier of that house;

“employee” means a person whether or not the person is an employee at common law, who works for pay or remuneration under a contract of service or under any other arrangement involving control by, or sustained dependence for the provision of work on, another person;

“employer” means any person who or undertaking, contractor, corporation, company, public authority or body of persons which has entered into a contract of employment with an employee and includes-

- (a) any agent, representative, foreman or manager of that person, undertaking, corporation, public authority or body of persons who is placed in authority over that employee; or
- (b) in the case of any person -
 - (i) who has died, the executor of the estate of that person;

(ii) who has become of unsound mind, the curator bonis of that person;

(iii) who has become insolvent, the trustee of the insolvent estate of that person;

(iv) which is a company in liquidation, the liquidator of that company;

"immediate family" means in relation to a person the father, mother, grandfather, grandmother, step father, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half brother, half sister, wife, husband, common-law wife or common-law husband of that person;

"Industrial Court" means the Industrial Court established under section 6 of the Industrial Relations Act, 2000;

"Industrial Court of Appeal" means the Industrial Court of Appeal established under section 20 of the Industrial Relations Act, 2000;

"Indvuna" has the meaning ascribed to it by the Swazi Administration Act, 1950 or its successor;

"Inspector" means any person appointed or deemed to have been appointed as Deputy Commissioner of Labour, Assistant Commissioner of Labour, Principal Labour Officer, Senior Labour Officer, Labour Officer, Factories Inspector or Labour Inspector in the public service and includes any other person to whom the Commissioner has delegated in writing the powers of an Inspector;

"Labour Advisory Board" means the board established under section 23 of the Industrial Relations Act, 2000;

"legal tender" means the monetary unit of Swaziland prescribed under the Central Bank of Swaziland Order, 1974

"liquor" has the meaning assigned to "liquor" in the law relating to liquor licensing;

"maternity leave" means leave granted to an employee arising from, or in contemplation of her confinement;

"Magistrate's Court" means the court established as such under the Magistrates Courts Act, 1938;

"medical practitioner" has the meaning ascribed to it by the Medical and Dental Practitioners Act, 1970 or its successor;

"midwife" has the meaning ascribed to it by the Nurses and Midwives Act, 1965 or its successor;

"Minister" means the Minister responsible for Labour;

"mine" includes any undertaking, whether public or private, for the mining, treatment or extraction of minerals from the earth, sea, rivers or inland waters;

"mineral" has the meaning ascribed to it by the Mining Act, 1958 or its successor;

"month" means a period commencing on any day in a calendar month and expiring on the day preceding the corresponding date in the succeeding calendar month;

"night" means the period commencing at 9.00 p.m. on one day and ending at 7.00 a.m. on the following day;

“notice” means in respect of the termination of employment, notice of termination of employment;

“organisation” means a trade union, staff association or employers association in good standing as the context may require;

“outworker” means a person to whom materials or articles are given out to be made up, cleaned, washed, altered, ornamented, finished or repaired or adapted for sale in that person’s own home or on other premises not under the control or management of the person who gave out the materials or articles;

“paid public holiday” means a public holiday on which an employee is entitled to a holiday on full pay in pursuance of a Wages Regulation Order or a collective agreement covering his terms and conditions of employment or in the contract of employment;

“pay day” means the day or date fixed by the employer or by agreement between parties, as the day on which the employer shall pay an employee wages due to that employee;

“parent” in relation to a child or young person includes a guardian and every person who has the actual custody of the child or young person;

“piece work” means any work the payment for which is calculated by the amount of work performed, irrespective of the time occupied in its performance;

“place of employment” means any place at or in which an employee works and the term “workplace” shall be construed accordingly;

“prescribed” means prescribed by the Minister by notice in the Gazette;

“public authority” means the Government or a local authority or any other public body having the authority to engage services ;

“public contract” means a contract involving the expenditure of funds by the Government or by any statutory body, whether or not incorporated, for -

- (a) the construction, alteration, repair, or demolition of public works;
- (b) the manufacture, assembly, handling or shipment of materials, supplies or equipment;
- (c) the performance or supply of services; or
- (d) the supply of goods;

“public officer” includes any officer of a public authority;

“ratified Convention” means a convention adopted by the International Labour Organization, ratified by the Kingdom of Swaziland and not renounced;

“recruitment” means the act of obtaining or supplying the labour of employees who do not spontaneously offer their services at any of the following-

- (a) the place of employment;
- (b) an employment exchange; or

- (c) an office conducted by an organization of employers established for the purpose of receiving applications for employment; and "recruit" is to be construed in this context

"redundant employee" means an employee whose contract of employment has been terminated-

- (a) because the employer has ceased, or intends to cease to carry on the business or activity in which the employee was employed; or
- (b) because the employer has ceased or intends to cease to carry on business in or at the place in which the employee was employed;
- (c) because of any of the following reasons connected with the operation of the business -
 - (i) modernization, mechanisation, or any other change in the method of production which reduces the number of employees necessary;
 - (ii) the closure of any part or department of the business;
 - (iii) marketing or financial difficulties;
 - (iv) alteration in products or production methods necessitating different skills on the part of employees;
 - (v) lack of orders or shortage of materials;
 - (vi) scarcity of means of production; or,
 - (vii) contraction in the volume of business; or
- (d) because of a natural disaster if the termination is wholly or mainly attributable to the destruction of, or damage caused to, the employers place of business by fire, hurricane, earthquake or other act of God, whether or not similar to any of the foregoing causes; and "redundancy" and "redundancies" are to be construed in this context;

"seasonal contract" means a contract of service, the period of which cannot be pre-determined, entered into for a particular season, or for work to be performed on or in connection with a special project;

"severance allowance" means the allowance to which an employee is entitled under section 74 of this Act;

"staff association" means any combination of staff, the principal purpose of which is the regulation of relations between staff and an employer or employers;

"temporary cessation of work" means a situation in which a business or part of a business has temporarily ceased or diminished, but where the employer and employee relationship subsists and where it is the intention of the employer to resume normal working as soon as possible;

"trade union" means a combination of employees, the principal purpose of which is the regulation of relations between employees and employer;

"umgijimi" has the meaning ascribed to it under the Swazi Administration Act, 1950;

"undertaking" means any industrial undertaking or public enterprise and any of the following establishments, businesses or undertakings whether public or private, which is wholly or mainly engaged in-

- (a) mines, quarries and other works for the extraction of minerals from the earth;
- (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished or in which materials are transformed, including undertakings engaged in ship building or in the generation, transformation or transmission of electricity or motive power of any kind;
- (c) undertakings engaged in building and civil engineering work, including constructional repair maintenance, alteration and demolition work;
- (d) undertakings engaged in the transport of passengers or goods, including the handling of goods at docks, quays, wharves, warehouse or airports;
- (e) the sale, purchase, distribution, insurance, negotiation, loan or administration of goods or services of any kind;
- (f) the provision of an administrative service in which the persons employed are mainly engaged in clerical work;
- (g) the production, printing or publication of a newspaper;
- (h) the treatment or care of children, or aged, destitute, infirm, mentally unfit or sick persons;
- (i) the operation of a boarding house, cafe, club, hotel, restaurant or any other place for refreshment or public entertainment;
- (j) the operation of any broadcasting, postal or telecommunication service or the production of cinematographic films; and
- (k) any other service similar to the foregoing;

but excluding -

- (l) any undertaking in which only members of the immediate family of the proprietor are employed;
- (m) domestic employment in or about a private dwelling house; and
- (n) any undertaking or part of an undertaking declared by the Minister in writing to be an agricultural undertaking;

“wages” means remuneration or earnings including allowances, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by law which are payable by an employer to an employee for work done or to be done under a contract of employment or for services rendered or to be rendered under the contract;

“week” means any period of 7 consecutive days;

“wife” means a person married according to Swazi law or other law or custom recognised within Swaziland, and if under that law or custom more marriages than one validly exist at the relevant time, then the persons married under that law or custom;

“work” means any work or labour, whether skilled or unskilled, carried out by an employee for

an employer for wages; and

"young person" means a person who has attained the age of 15 years but is under the age of 18 years.

PART II

STATUS AND SCOPE OF THIS ACT

Act binds Government

3. This Act applies to all Government employees, except employees of the disciplined forces.

Act not affected by agreements

4. This Act takes precedence over any agreement, including any contract of employment or collective agreement, whether entered into before or after the coming into operation of this Act.

Existing contracts to continue in force

5. A contract of employment that is valid and in force on the date that this Act comes into operation-

- (a) remains in force after that date; and
- (b) is deemed to be made under this Act, to the extent that the terms of the contract do not conflict with this Act.

Contracts not to conflict with law

6. (1) A contract of employment may not establish a condition of employment that is less favourable to an employee than a condition that is required by this Act or any other law.

(2) Any condition in any contract of employment that does not conform to this Act or any other law has no legal effect, and the contract shall be interpreted by substituting the condition required by law for the condition that does not conform to this Act.

More favourable term not affected by this Act

7. This Act does not affect any term of any contract of employment or any collective agreement that establishes a condition of employment that is more favourable to an employee than any condition established by this Act.

Exemptions by the Minister

8. (1) The Minister may publish an order in the Gazette exempting any person or public authority, or any class of persons or public authorities, from-

- (a) all or any of the provisions of this Act; and
- (b) any regulation, order or direction made under this Act.

(2) The Minister may grant an exemption only where-

(a) the exemption is consistent with any ratified Convention; and

(b) the Minister has -

(i) published a notice in the Gazette informing members of the public of the intention to exempt any person or public authority in terms of subsection (1);

(ii) allowed a reasonable time for any interested person or organisation to lodge an objection against the proposed exemption; and

(iii) heard any objection lodged within any time period stipulated in the notice.

(3) The Minister may delegate an appropriate person to hear any objection lodged in terms of sub-paragraph (2)(b)(iii).

(4) If an objection is refused either in whole or in part, and the party lodging the objection wishes to pursue its objection, the Minister shall refer the matter to the Industrial Court.

(5) After receiving a referral in terms of subsection (4), the Industrial Court shall determine whether An exemption should be granted, and if so, on what terms.

(6) An exemption granted in contravention of this section has no legal effect.

PART III

FUNDAMENTAL RIGHTS: PROHIBITION OF CHILD LABOUR AND EMPLOYMENT OF YOUNG PERSONS

Meaning of employment

9. (1) In this Part-

(a) a child is engaged in employment if the child takes part or assists in any business carried on for profit -

(i) whether or not the child receives payment or other reward for that participation or assistance;

(ii) whether the child is engaged under a contract of service, a contract for services, or any other arrangement;

(b) a person who causes or permits a child to engage in employment -

(i) employs the child; and

(ii) is the employer of the child.

Prohibitions on employment of a child and young person

10. (1) A person may not employ, engage or otherwise permit the participation by a child or a young person in any of the following activities-

(a) any form of slavery or practice similar to slavery involving a child or a young person, including but not limited to -

- (i) debt bondage and serfdom;
- (ii) forced or compulsory labour, and
- (iii) the forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child or young person for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child or young person for illicit activities, in particular for the production and trafficking of drugs;
- (d) any activity conducted in or on any premises or any part of any premises which are wholly or mainly used for the sale of liquor for consumption on the premises;
- (e) any work underground;
- (f) any dangerous or unhealthy work; or
- (g) any other work which, by its nature or the circumstances in which it is carried out, is hazardous or otherwise likely to harm the health of the child or young person -
 - (i) work which exposes the child or young person to physical, psychological or sexual abuse;
 - (ii) work underwater, at dangerous heights or in confined spaces;
 - (iii) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
 - (iv) work in an unhealthy environment which may expose the child or young person to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health; and
 - (v) work under particularly difficult conditions such as work for long hours or during the night or work where the child or young person is unreasonably confined to the premises of the employer.

(2) The Minister may, after consulting the Labour Advisory Board and by notice in the Gazette, specify particular types of work contemplated by subsection (1)(g) and prohibit the employment of a child and a young person in that work.

Limitations on employment of a child or young person

11. (1) A person may not employ a child except-

- (a) in a family business, which in relation to the child, means a business carried on only by a parent or guardian of the child; or
- (b) as otherwise provided for in this section.

(2) A person who has attained the age of 14 may perform work in any undertaking as an integral part of-

- (a) a course of education or training for which a school or training institution is primarily responsible;

- (b) a programme of training mainly or entirely in an undertaking, which has been approved by the Commissioner' or
- (c) a programme of guidance or orientation, approved by the Commissioner, to facilitate the choice of an occupation or training.

(3) Any child who is employed in terms of subsection (1) may not work-

- (a) during school hours, meaning the school hours prescribed by the Education Act, 1964 or its successor;
- (b) between the hours of 6.00 p.m. of one day and 7.00 a.m. of the following day;
- (c) for more than 6 hours in any one day;
- (d) for more than 33 hours in one week; or
- (e) for more than 4 hours continuously, without a meal interval of at least one hour for a meal or rest.

(4) A person may not employ a person who has not attained the age of 16 years in any trade, business or undertaking between the hours of 6:00 p.m. on one day and 7:00 a.m. on the following day.

(5) Subsection (4) does not apply to any apprenticeship or vocational training approved by the Minister, in writing, after consultation with the Labour Advisory Board, in any industry or occupation required to be carried on continuously.

(6) If the Minister approves the employment of any person in terms of subsection (5), that person shall be granted a period of rest of at least 13 consecutive hours between any 2 periods of employment.

Minister may grant exemptions

12. (1) Notwithstanding the provision of sections 10 and 11, a child or young person may be employed during any prohibited hours in the interest of art, science or education, or any form of public entertainment or for the purposes of making cinematographic films, under and in accordance with the conditions of a licence granted by the Minister.

(2) The Minister may at any time, in the absolute discretion of the Minister, revoke, vary or suspend the conditions of any licence granted in terms of subsection (1).

(3) The Minister may not grant a licence under this section when, because of the nature of the entertainment, or the circumstances in which it is carried on, or the nature of the cinematographic film or the conditions under which it is made, participation in the entertainment or in the making of the film may be dangerous to the life, health or morals of a child or young person.

(4) Every licence shall contain the following-

- (a) a prohibition on employment after midnight;
- (b) a requirement that the child or young person shall be allowed a rest period of at least 14 consecutive hours; and
- (c) safeguards to protect the health and morals of the child or young person and to avoid

interference with the child or the education of a young person.

Medical examination of young persons

13. (1) An employer who employs a young person shall ensure that the young person is medically examined by a medical practitioner at the time of first being taken into employment and after that, at intervals of 12 months, until the employee reaches the age of 18 years.

(2) A person may not employ a young person in any undertaking if a medical practitioner certifies that the young person is unfit for employment in that undertaking.

(3) If a young person, who, having been employed, is afterward certified by a medical practitioner to be unfit to continue in that employment, then-

- (a) the contract of employment between the employer and the employee terminates automatically; and
- (b) the employee must be paid all benefits to which the employee is entitled by virtue of the contract of employment, including wages in lieu of any notice to which the employee would have been entitled under Part XII.

(4) The employer shall bear the costs of any medical examination required by this section.

PART IV

FUNDAMENTAL RIGHTS : EQUALITY AT WORK

Interpretation

14. (1) In this Part-

- (a) "equal pay" means the rate of wages and remuneration in cash and in kind actually and legally payable to an employee in which there is no differentiation between male employees and female employees based on the sex of the employees; and
- (b) "work of equal value" means work performed by male and female employees in which the duties and services to be performed require similar or substantially similar levels of qualification, experience, skill, effort, responsibility, and which is performed under similar or substantially similar working conditions.

Equal pay for work of equal value

15. (1) An employer may not discriminate between male and female employees employed by that employer by failing to pay equal pay for work of equal value.

(2) Differential rates of pay between male and female employees do not contravene subsection (1) if they correspond to-

- (a) differences in the levels of qualification, experience, skill, effort, responsibility required to perform the duties and services involved;
- (b) differences in the levels of seniority; and
- (c) the quality or amount of the work performed.

No discrimination on grounds of sex, race etc.

16. (1) An employer may not discriminate, directly or indirectly, against an employee in any employment policy or practice or in any contract of employment, on any one or more grounds, including but not limited to colour, gender, race, religion, marital status, national origin, pregnancy or intended pregnancy, sexual orientation, sex, tribal or clan extraction, political affiliation or opinion, culture, language, trade union, staff association or organisation affiliation, social origin or status, health status, HIV status, age or disability.

(2) It is not discrimination to distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.

PART V**FUNDAMENTAL RIGHTS: PROHIBITION AGAINST FORCED LABOUR*****Interpretation***

17. In this Part-

“forced labour” means all work or service which is exacted from any person under the threat of any penalty and for which that person has not volunteered, but does not include -

- (a) any work or service exacted by virtue of any compulsory military service law for work of a military nature;
- (b) any work or service exacted from any person as a consequence of a conviction in a court of law; or
- (c) any work or service exacted in case of emergency, that is to say, in the event of war or a calamity or threatened calamity such as fire, flood, famine, earthquake, epidemic, or epizootic disease, invasion by animals or insect pests or plant diseases or pests and in general any circumstances which might endanger the existence or well-being of the whole or part of the population;

Prohibition of forced labour

18. (1) Forced labour may not be imposed as a means of-

- (a) political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) mobilising and using labour for purposes of economic development;
- (c) any form of discipline for having participated in strikes or peaceful protest in terms of the Industrial Relations Act, 2000; or
- (d) racial, social, national or religious discrimination.

(2) Any work or service carried out in terms of section 17 may not be carried out on behalf of or for the benefit of a private person.

Concessions not to include forced labour

19. A concession granted to any person may not involve any form of forced labour to produce or collect products that the beneficiary of the concession utilises, or in which that person trades.

PART VI**CONTRACTS OF EMPLOYMENT*****Application of this Part***

20. This Part applies to every contract of employment concluded and to be performed in Swaziland.

Probation

21 (1) An employer may require a newly appointed employee to complete a period of probation.

(2) The purpose of a probationary period is to give the employer an opportunity to evaluate the performance and suitability of the employee for continued employment, before the appointment of the employee is confirmed.

(3) A probationary period may not exceed 3 months.

(4) Subsection (3) does not apply to an employee engaged in supervisory, technical or confidential work, who may be required by the employer to complete a probationary period of reasonable duration.

(5) The probationary period of an employee referred to in subsection (4) shall be determined, in writing, at the time of the appointment of the employee.

Written particulars of employment to be provided

22 (1) Every employer shall give written particulars of employment -

- (a) to each employee who is in the employment of the employer on the date on which this Act comes into operation, within 2 calendar months of that date; and
- (b) to each person employed after this Act comes into operation, within 6 weeks of the date on which that person commences work.

(2) The written particulars must conform to the form in the Schedule to this Act.

(3) Subsection (1) does not apply to an employee -

- (a) who is a domestic worker;
- (b) who normally works or is expected to work less than 21 hours per week;
- (c) who has contracted to work for a fixed period of 6 weeks or less and is not re-engaged at the end of that period;
- (d) who is a member of the immediate family of the employer; or

- (e) whose conditions of employment are governed by a collective agreement, provided that the employer has-
 - (i) lodged a copy of the collective agreement with the Commissioner , and
 - (ii) made a copy of the agreement available in the workplace for perusal by employees.
- (4) Both the employer and the employee shall sign the written particulars of employment, in the presence of witnesses.
- (5) If an employee refuses to sign the written particulars of employment, the employer shall notify the Commissioner in writing.
- (6) On receipt of a notice in terms of subsection (5), the Commissioner shall arrange for an Inspector to interview the employee and explain the written particulars of employment and their purpose to the employee.
- (7) If the employee for any reason continues to refuse to sign the written particulars of employment, the Inspector shall-
 - (a) endorse the form to that effect;
 - (b) hand the form to the employee; and
 - (c) notify the employer in writing that the form has been endorsed.

Minister may vary form

23. The Minister may, after consultation with the Commissioner , amend the form in the Schedule.

Form not to be deemed written contract

24. (1) In any proceedings under this Act, written particulars of employment signed by both the employer and the employee shall be accepted as evidence, on the face of it, of the matters contained in the form at the time that it was signed.

(2) Nothing in this Part deems any written particulars of employment to constitute the complete record of any contract of employment.

Changes in terms of employment

25. (1) If an employer intends to amend the terms recorded in the written particulars of employment or any condition of employment contained in a contract of employment, the employer shall notify the employee in writing, specifying the amendments that the employer proposes.

(2) The written particulars of employment and conditions of employment are automatically amended by the terms proposed in the notice given by the employer in terms of subsection (1), unless the employee -

- (a) is of the view that the proposed amendments would result in less favourable conditions of employment; and
- (b) requests the employer, within 14 days of receipt of the notice, to send a copy of the notice and the written particulars of employment to the Commissioner.

(3) The employer shall, within 7 days of receiving a request in terms of subsection (2), deliver to the Commissioner, employee and organisation, where applicable-

- (a) a copy of the request;
- (b) a copy of the notice;
- (c) a copy of the written particulars of employment; and
- (d) a copy of any written contract of employment.

(4) On receipt of the documents referred to in subsection (3), the Commissioner shall-

- (a) examine the changes to the conditions of employment proposed in the notice of the employer;
- (b) form an opinion as to whether the changes proposed by the employer would result in less favourable conditions of employment for the employee; and
- (c) within 14 days of receipt of the documents, advise the employer and the employee of that opinion.

(5) If, in the opinion of the Commissioner the proposal made by the employer under subsection (1) would result in less favourable conditions of employment for the employee, the proposal will have no legal effect.

(6) Any person who is not satisfied with any opinion formed or decision made by the Commissioner under this section may, within 14 days of receipt of the opinion or decision of the Commissioner, apply in writing to the Commissioner for the matter to be reviewed and the Commissioner using the powers referred to in section 129, shall endeavour to resolve the matter.

(7) If the Commissioner is unable to resolve the matter within 14 days of receipt of the application for review, the Commissioner shall refer the matter to the CMAC for determination.

(8) Nothing in this section precludes an employer from referring any dispute to the CMAC concerning a change to terms and conditions of employment in terms of the Industrial Relations Act 2000.

Part-time employees

26. (1) In this section, 'part-time employee' means an employee not ordinarily employed on a full time basis, working less than the normal hours of work and allowed to work for other employers provided that the person is employed for not less than 24 hours a week for a cumulative period of six weeks per annum with that respective employer.

(2) A person may not be engaged as a part-time employee if the nature of the work for which the employee is to be employed requires permanent employment.

(3) The Minister may grant exemptions in terms of section 7 in terms of which any sector or categories of employees may be exempted from the provisions of sub-section (2).

(4) A part-time employee must be granted-

- (a) the same protection and rights enjoyed by comparable full-time employees, including -

- (i) protection against discrimination in employment and occupation,
- (ii) the right to occupational safety and health,
- (iii) the right to organise;
- (iv) the right to bargain collectively; and
- (v) the right to act as representatives of the workers;
- (b) on a pro rata basis, the benefits of social security schemes or any other similar benefits, as near as possible to comparable full-time employees;
- (c) conditions of employment equivalent, having regard to the part-time status of the employee, to those of comparable full-time employees, concerning -
 - (i) maternity protection,
 - (ii) termination of employment;
 - (iii) paid annual leave;
 - (iv) paid public holidays;
 - (v) sick leave; and
 - (vi) a fair and reasonable wage, not lower than the prescribed minimum wages for a comparable full-time employee, but calculated proportionally on an hourly or performance-related or piece-rate basis, or as stipulated by any collective agreement.

(5) For purposes of subsection (4), conditions afforded to a part-time employee may be calculated or determined in proportion to hours of work, contribution or earnings or other methods consistent with fair labour practices.

PART VII

PAYMENT OF WAGES

Application of this Part

27. (1) The Minister may, after consultation with the Labour Advisory Board and by notice in the Gazette, exclude the application of any or all of the provisions of this Part to any employee or category of employee who-

- (a) is not employed in unskilled work; or
- (b) is a domestic worker.

Wages to be paid in legal tender

28. (1) Subject to section 30, an employer shall pay the wages of an employee in legal tender.

- (2) Any term of a contract of employment that provides for the whole or any part of the

wages of an employee to be paid other than in legal tender, has no legal effect.

(3) Nothing in this part prevents an employer from paying an employee, with the consent of the employee-

- (a) by cheque drawn on a bank;
- (b) by postal order;
- (c) by money order; or
- (d) by direct deposit into a financial institution or bank account number submitted to the employer by the employee for the purpose.

Wages to be paid when due

29. (1) An employer shall pay wages to an employee at the following intervals -

- (a) if an employee is employed daily, weekly, fortnightly or monthly, at the end of each day, week, fortnight or month, as the case may be;
- (b) in the case of an employee employed for a period of more than one month, at intervals of not more than 1 month; or
- (c) in the case of an employee under a daily contract where, by agreement or custom, wages are not paid daily but at intervals not exceeding one month, in accordance with that agreement or custom.

(2) In the case of an employee whose wages are calculated on the basis of piece work, the employer shall pay wages to the employee at intervals of not more than one month.

(3) The amount of wages paid in terms of subsection (2) shall relate to the proportion of the piece-work that the employee has completed either during the time from which the employee commenced employment, or from the date on which the employee was last paid wages, whichever is applicable.

(4) If a contract referred to in paragraph (c) of subsection (1) terminates and no new contract is entered into or presumed to be entered into prior to the time at which wages are due under this section, the employer shall pay to the employee the wages due at the time that the contract terminates.

Remuneration other than wages

30. An employer and an employee may agree, in writing, that in addition to monetary wages, the employee will be paid allowances in kind-

- (a) that are of personal benefit to the employee and the family of the employee ;
- (b) that comprise a fair and reasonable value appropriate to the monetary value placed on the allowance by the employer; and
- (c) which do not comprise noxious drugs or liquor.

Times and places of payment

31. (1) Wages shall be paid during working hours at or near the workplace of the employee.

(2) An employer may, if authorised in writing by an employee and subject to that authority, pay the whole or any part of the wages due to the employee to a person named in the authorisation.

(3) The employer shall determine the day on which wages shall be paid to the employee and shall notify the employee of that date.

(4) If an employee is entitled in terms of a contract of employment to a share of the profits of the undertaking in which that employee is employed, the employer shall, at least once every year, furnish the employee with a statement of accounts relating to that share.

Wages not to be paid on certain premises

32. (1). An employer may not pay wages to an employee at or in any shop or other place at which liquor is sold, or in any office or other place adjacent to premises at which liquor is sold.

(2) Subsection (1) does not apply to an employer who is a resident, owner or occupier of a shop, office or place, if the employee is employed in that retail shop, office or place.

Sale of goods or services by employer to employees

33. (1) An employer may not require an employee to buy any goods or services either from that employer or from any other person.

(2) An employer may not compel or attempt to compel an employee or any dependant of an employee to buy any goods or services from that employer or from any other person.

(3) If for any reason an employer sells goods or services to an employee, the employer may not sell those goods or services to the employee at prices above those at which they are generally available elsewhere in Swaziland.

Special provision for service charges

34. (1) If an employer levies a service charge in any undertaking by the addition to any invoice of the value of any services rendered by an employee, that service charge must be distributed to the employees in the undertaking either -

- (a) in a manner to be agreed between the employer and the employees; or
- (b) in terms of any collective agreement that applies to the employees.

(2) The employer shall, as and when required by the Commissioner produce evidence as to-

- (a) the total amount of the service charges levied during any given period; and
- (b) the manner and form in which that amount was distributed to employees.

Agreements as to place and manner of spending wages illegal

35. (1) An employer may not include in any contract of employment a condition, restriction or requirement as to the manner in which the wages paid to the employee are to be spent.

(2) Any condition, restriction or requirement included in a contract of employment in breach of subsection (1) has no legal effect.

Priority of wages

36. (1) An employee is entitled to recover in a Magistrate's Court any wages, exclusive of any sums lawfully deducted from those wages, owing to the employee in terms of this Act.

(2) Notwithstanding any other law, whenever an attachment is issued against the property of any employer in execution of any judgment, the employer shall notify the Commissioner.

(3) If the wages of any employees employed by an employer referred to in subsection (2) are outstanding, the Commissioner shall immediately obtain an order against the employer in respect of those wages.

(4) A person may not pay to any plaintiff the proceeds realised in pursuance of the execution of any judgment against any employer until any judgment obtained in terms of subsection (3) has been satisfied.

(5) The preference established by subsection (4) is limited to a sum not exceeding the equivalent of 4 months' wages in respect of each employee.

Interest on advances prohibited

37. If an employer advances any wages to an employee in anticipation of the regular period of payment, the employer may not deduct from the wages of the employee any amount that is a discount, interest or similar charge in respect of that advance.

Authorised deductions from wages

38. (1) An employer may deduct the following amounts from the wages due to an employee-

- (a) any amount due by the employee in respect of any tax or rate that the employer is required to deduct from the wages of an employee under any law;
- (b) any amount due by the employee in respect of a contribution to the Swaziland National Provident Fund;
- (c) the actual or estimated cost to the employer of any materials, clothing, tools and implements supplied by the employer to the employee at the written request of the employee and which are to be used by the employee at work;
- (d) any money advanced to the employee by the employer, whether paid directly to the employee or to another person at the written request of the employee in anticipation of the regular period of payment of the wages of the employee; and
- (e) any amount paid to the employee in error in excess of the wages due to that employee.

(2) Subsection (1)(c) does not apply to any protective clothing or other equipment that the employer is required to supply in terms of any law or any collective agreement.

(3) An employer may, if the employee gives the employer authority in writing, deduct an amount stipulated in the authority as an amount due by the employee in respect of a membership fee or contribution to an organisation of which the employee is a member.

(4) An employee may assign a part of any wages due under a contract of employment.

(5) An employer may not deduct a total amount of more than one third of the wages due to the employee in respect of any pay period in respect of any-

- (a) deduction from the wages of an employee under paragraphs (c) and (e) of subsection (1) or under subsection (3);
- (b) assignment by an employee under subsection (4); and
- (c) an attachment made under any law.

Further restrictions on deductions

39. (1) An employer may not make any deduction from the wages due to an employee, or make any agreement or arrangement for any payment by the employee, in respect of any alleged bad or negligent work by the employee.

(2) An employer may, with the written consent of an employee, make deductions from the wages due to the employee in respect of the loss or damage to any tools, materials or other property belonging to the employer and issued to the employee, provided that the employee caused the loss or damage by fault or negligence.

(3) The amount of any deductions made under subsection (2) shall be fair and reasonable and may not exceed the actual cost to the employer of the loss or damage in question.

(4) An employer may not make any deductions from wages, in terms of this section and together with any deductions permitted by section 38(1), that exceed more than one half of the wages of the employee payable for any period in which the deductions are made.

Deduction for obtaining employment prohibited

40. An employer may not deduct any amount from the wages of an employee-

- (a) as any form of payment for retention by the employer; or
- (b) for payment to a third party for the purpose of obtaining or retaining employment.

Illegal advances to be irrecoverable

41. Any advance that is made to an employee that does not comply with this Act is unlawful and may not be recovered in any court whether by way of counter-claim, set off or otherwise.

Saving as to judgment debts

42. (1) During the period of a contract of employment, the fact that an employee has received an advance of wages does not, by reason only of that advance, deem the employee to have or to have had means and ability to pay any sum due from that employee under any judgment of a court.

(2) Subsection (1) does not apply to a maintenance order under section 12 of the Maintenance Act of 1970.

Employers to issue details of wage payments

43 (1) This section does not apply to a domestic worker.

(2) An employer must, at the time of paying wages to an employee provide that employee with the following written details (referred to as a wage slip) in respect of the wage period to which the wages relate -

- (a) the name of the employee
- (b) the occupation of the employee;
- (c) the wage rate of the employee;
- (d) the period to which the wage relates;
- (e) the number of hours paid for at ordinary time;
- (f) the number of hours paid for at overtime rate;
- (g) the nature and amount of any bonuses or allowances paid;
- (h) the gross wages earned by the employee;
- (i) the amounts and reasons for any deductions made from the gross wages; and
- (j) the amount of the net wage paid to the employee.

(3) If an employee accepts any wages or a wage slip without protest or reservation, this does not prejudice the right of the employee to recover all or any part of any unpaid wages.

(4) If an employee is entitled in terms of a contract of employment to the CMAC or share of the profits of the undertaking in which that employee is employed, the employer shall at the time the CMAC or share is paid to the employee, provide full details-

- (a) as to the method of calculation of the CMAC; and
- (b) the total amount of profit of the undertaking in respect of the period to which the payment relates.

Security for the payment of wages

44. (1) The Minister, in consultation with the Labour Advisory Board, shall establish an Unemployment Benefit Fund (referred to as "the Fund") within one year of the coming into force of this Act.

(2) The Fund shall consist of financial contributions from employers, employees and Government.

(3) The Fund may be used for any purpose agreed by the Labour Advisory Board, including-

- (a) payment to employees on maternity leave; and
- (b) the payment of wages due but not paid by an employer who closes a business without complying with this Act, or any other law.

(4) The Fund comes into operation on a date to be determined by the Minister, after the Minister has, in consultation with the Labour Advisory Board and by notice in the Gazette,

promulgated regulations governing the operations of the Fund.

(5) Any amendments to the regulations referred to in subsection (4) shall be agreed between the Minister and the Labour Advisory Board before they are promulgated.

PART VIII

HOURS OF WORK

Night Work

45. (1) An employer may not, without a certificate issued by the Department of Labour, require a female employee to work in any undertaking between the hours of 7 p.m. of one day and 6 a.m. of the following day.

(2) The Commissioner shall, before issuing a certificate under subsection (1)-

- (a) consult any organisation representing the employers and employees concerned;
- (b) ensure that adequate safeguards exist as regards occupational safety and health (including rest room facilities and facilities for eating meals), social services and equality of opportunity and treatment for female employees;
- (c) ensure that when female employees are required either to start or finish work between 7 p.m. and 6 a.m., that adequate means are available to transport the employees between their homes and their places of work;
- (d) specify in the certificate that the authorisation does not extend to female employees -
 - (i) 8 weeks before and 8 weeks after childbirth, or
 - (ii) any longer period prescribed in a medical certificate presented by the employee.

(3) The provisions of subsection (1) do not apply-

- (a) to emergencies which could not be controlled or foreseen, or which are not of a recurring character and which interfere with the normal working of the undertaking;
- (b) in cases where the work has to do with raw materials, or materials in the course of treatment which are subject to rapid deterioration and when night work is necessary to preserve the materials from certain loss;
- (c) to persons holding responsible positions of a managerial or technical nature; or
- (d) where no more than 5 family members are employed.

(4) Any male or female employee engaged in night work shall be given adequate opportunities for rest and meal breaks between periods of work.

Special provisions for domestic workers

46. (1) In this section, unless the parties agree otherwise, "actual work"-

- (a) includes the time during which a domestic worker is at the disposal of the employer;
- (b) excludes any period of time during the night when a domestic worker is required

- (b) excludes any period of time during the night when a domestic worker is required only to be on the premises of the employer.
- (2) A person may not employ a domestic worker-
 - (a) for more than 8 hours actual work in any one day;
 - (b) for more than 48 hours actual work spread over 6 days in any one week; or
 - (c) continuously for a longer period than 4½ hours actual work without a break of at least 1 hour, which must not be included in the computation of actual hours worked.
- (3) A domestic worker must be granted, in each week, a period of rest of not less than one day to be taken or time that is mutually agreed between the employer and the domestic worker.
- (4) Notwithstanding the provisions of subsections (1) and (2), a domestic worker may agree to work overtime in excess of the hours stipulated, in which case the domestic worker must be paid for that overtime at not less than one and one-half times the normal wage rate.

PART IX

ANNUAL LEAVE, SICK LEAVE AND COMPASSIONATE LEAVE

Application of this Part

- 47. This Part applies generally but not to -
 - (a) an outworker; or
 - (b) a person employed by a member of the immediate family of the person who -
 - (i) works exclusively for that employer; and
 - (ii) lives in the house of the employer.

Employer to grant paid annual leave

- 48. (1) Notwithstanding any other law, every employer shall grant an employee paid annual leave in accordance with this Part.
- (2) Nothing in this Part precludes an employer from granting an employee paid annual leave in excess of the minimum periods required by this Part.

Entitlement to paid annual leave

- 49. (1) After each completed period of 12 months employment with an employer (an 'annual leave cycle'), the employer shall grant an employee at least 2 weeks annual leave, and pay the employee the wages that the employee would have been paid for the time, excluding overtime, that the employee would normally have worked during the period of annual leave.
- (2) An employee is not entitled to paid annual leave in respect of any annual leave cycle during which the employee has been absent from work for more than 36 normal working days.
- (3) Subsection (2) does not apply to any absence-

- (a) on account of any illness, provided that the employee produces a certificate signed by a medical practitioner;
- (b) on maternity leave in terms of Part X; or
- (c) for any other reason for absence approved by the employer.

Paid holiday to be given within a certain period

50. (1) An employer shall grant an employee annual leave not later than 6 months after the end of the annual leave cycle in which the leave has been accumulated.

(2) Annual leave in terms of this Part shall be taken in one unbroken period, except that an employee may request the leave to be granted in 2 or more periods, one of which shall be a continuous period of at least 1 week.

(3) If an employer closes a section or sections of the workplace for a fixed period during the year, all or any part of the paid annual leave of an employee may, with the agreement of the employee be taken before the completion of the annual leave cycle in which the paid annual leave accrued.

(4) Notwithstanding the provisions of subsection (1), an employer and an employee may agree in writing that one week of the annual leave accumulated in each leave cycle may be deferred and accumulated over a period of not more than 4 years.

Continuity of employment

51. For the purposes of this Part, an employee is deemed to be in continuous service of employment if the employee is re-engaged by an employer within 7 days of any termination of employment with that employer.

Wages in respect of annual leave

52. (1) An employer shall pay an employee who takes annual leave the wages due to that employee in terms of section 49, in advance, not later than the last working day before the period of leave commences.

(2) Any payments made to an employee in respect of annual leave under this Part shall be paid in addition to and not in substitution for any other payment or consideration to which the employee is entitled under a contract of employment or in terms of this Act.

(3) An employer may not require an employee to take annual leave during any notice period, if the notice of termination of employment was given by the employer.

Public holidays occurring during annual leave

53. A period of annual leave of an employee shall be increased by one day, on full pay, for each public holiday that falls in the period of annual leave taken by the employee in terms of this Part.

Record of annual leave

54. (1) Every employer shall at all times keep a record for each employee showing-

- (a) the name of the employee;

- (b) the dates of the commencement and termination of the employment of the employee;
- (c) the dates on which any paid annual leave was taken; and
- (d) the amount paid to the employee in respect of the paid annual leave to which the employee is entitled.

(2) The record of paid annual leave may be incorporated in the record required to be kept under section 144 .

Agreement contrary to Act

55. (1) An employee may not forfeit or waive the whole or any part of the period of paid annual leave granted under this Act.

(2) Any agreement entered into in breach of subsection (1) has no legal effect.

Compassionate leave

56. (1) An employee who has completed any period of probation referred to in section 21 is entitled to compassionate leave with pay, in the following circumstances-

- (a) in the event of the death of a husband, leave of 30 days on half pay;
- (b) in the event of the death of a wife, leave of 7 days on half pay;
- (c) in the event of the parent, adoptive parent, child, adopted child, of an employee 7 days on half pay; and
- (d) for the grandparent, grandchild and siblings of an employee 5 days on half pay; with a total of b) and c) not exceeding 30 days per annum, with maximum compensation equivalent to seven days full pay per annual cycle.

(2) Days on full pay in excess of those provided in this section, shall be accessed from annual, unpaid or any other leave that may be available to the employee.

Sick leave

57. (1) An employee who has been continuously employed by the same employer for at least 3 months is entitled, for each year of employment, to-

- (a) 14 days sick leave on full pay, and
- (b) an additional 14 days sick leave on half pay.

(2) An employer shall pay the employee during sick leave at the basic wage rate of the employee.

(3) If the employee is not employed on a fixed wage, the payment to which the employee is entitled in terms of this section shall be calculated using the average amount of wages the employee received for each day of employment during the week preceding the sick leave-

- (a) for each day of sick leave on full pay, the average daily wage is payable; and

- (b) for each day of sick leave on half pay, half that amount is payable.

Sickness to be certified by medical practitioner

58. (1) An employer is not required to pay an employee in terms of section 57 if the employee does not produce a medical certificate covering the period of sick leave claimed.

(2) The medical certificate shall be signed by a medical practitioner, or by an authorised registered nurse if a medical practitioner is not available.

(3) Nothing in subsection (1) prevents an employer from granting an employee paid sick leave in excess of that provided for in this Part, or from granting paid sick leave to an employee who satisfies the employer, other than by the production of a medical certificate, that the employee was, for reasons of sickness, unable to carry out normal duties on any day.

PART X

MATERNITY LEAVE

Duration of maternity leave

59. (1) An employee is entitled to at least 12 weeks of maternity leave, arranged so that the employee is on leave for-

- (a) a period of not more than 6 weeks leave before the date of confinement; and
- (b) a period of at least 6 weeks leave from the date of the confinement.

(2) An employee may agree, in writing, to reduce the period of maternity leave to a period of less than 12 weeks.

(3) If confinement takes place without an employee having been granted maternity leave, or if the period of leave taken before the confinement is less than 6 weeks, the period of maternity leave after confinement shall, if the employee so requests, be extended so that the total period of maternity leave amounts to not less than 12 weeks.

(4) If an employee has been granted maternity leave and the date of confinement is a date later than that stated in the certificate or other evidence delivered to the employer under this section as being the date on which confinement was expected, the maternity leave of the employee shall be extended to include the period that elapsed between those dates.

Payment during maternity leave

60. (1) If an employee has been in the continuous employment of her employer for 12 months or more and is entitled to maternity leave in terms of section 59, the employer shall pay that employee for at least 4 weeks of the period that she is on leave.

(2) The employee shall produce to her employer-

- (a) a certificate issued by a medical practitioner or a midwife stating the expected date of her confinement;
- (b) a certificate issued by a medical practitioner or a midwife stating the actual date of

her confinement; or

- (c) any other evidence in support of the entitlement to maternity leave as is reasonable, having regard to all the circumstances of the case.

(3) Notwithstanding the provisions of subsection (1), an employee is not entitled to paid maternity leave more than once in every period of 24 months calculated from the date on which she returned to work after her last period of paid maternity leave.

(4) Every employee who is entitled to paid maternity leave in terms of subsection (1) is entitled to receive, from the Unemployment Benefit Fund established in terms of section 44(1), any benefit provided for in terms of any regulation promulgated by the Minister in terms of section 44(4).

(5) Except as provided in this Part, an employer is not required to pay an employee for any period of maternity leave.

Additional leave

61. An employee who suffers any illness arising out of her confinement shall be granted, in addition to the maternity leave to which she is entitled under section 59, any additional leave, not exceeding a period of 6 weeks, that a medical practitioner may recommend.

Protection of employment

62. (1) An employer may not terminate the employment of an employee or require an employee to resign on the grounds that she is pregnant.

(2) An employer may not terminate the employment of an employee or give notice of any intention to do so-

- (a) at any time between the date on which the employee gives the employer a certificate or other evidence of her entitlement to maternity leave under section 60 and the date on which her maternity leave or additional leave granted under section 61 expires; or

- (b) so that any notice of intention to terminate employment would expire during the maternity leave of the employee or any additional leave granted under section 61.

(3) An employer may not require an employee to resign during any of the periods referred to in paragraphs (a) and (b).

(4) Subsection (2) does not apply to an employee whose employment is terminated for any of the reasons listed in section 81.

Protection of seniority

63. (1) When an employee returns to work after maternity leave or any additional leave granted in terms of section 61, the employer shall allow her to continue in her former work or equivalent work, without loss of seniority.

(2) An employer may not pay an employee lower wages or employ her on less favourable conditions than those which applied to her employment before she went on maternity leave, by reason only of the fact that the employee went on maternity leave.

Nursing breaks

64. Every female employee who returns to work after maternity leave is entitled to a 1 hour nursing break each day, on full pay, for a period of 3 months calculated from the date on which she returns to work.

PART XI**SWAZILAND NATIONAL PROVIDENT FUND*****Interpretation***

65. In this Part, the expression -

“employee” does not include a domestic worker; and

“Fund” means the Swaziland National Provident Fund established by the Swaziland National Provident Fund Order 1974, or its successor.

Delivery of documents from the Fund

66. (1) Every employer who is liable to make contributions to the Swaziland National Provident Fund shall deliver to the Chief Executive Officer of the Fund a true copy of every document of registration.

(2) The Chief Executive Officer shall forward a copy of the documents referred to in subsection (1) to the Commissioner.

(3) The Chief Executive Officer of the Fund shall, on the date that this Part comes into operation, deliver to the Commissioner a true copy of the most recent quarterly return in respect of employees which has then been received by the Chief Executive Officer from each employer who is, on that date, registered as a contributing employer to the Fund.

(4) The Chief Executive Officer shall deliver to the Commissioner a true copy of each quarterly return referred to in subsection (3).

Non-contributing employers to deliver documents

67. (1) In this section, an ‘employer’ means -

- (a) any employer who has not registered as a contributing employer to the Fund;
- (b) any employer whose registration as a contributing employer to the Fund has been terminated for any reason; or
- (c) an employer who for any reason is not required to register as a contributing employer to the Fund.

(2) An employer shall within 10 days after this Part comes into operation, or within 10 days after an employee commences employment, deliver to the Commissioner a document containing every particular which is required to be included in an application for registration as a contributing employer to the Fund.

Commissioner to maintain register

68. The Commissioner shall keep each document received under sections 66 and 67 in a register of employers maintained to facilitate the administration and enforcement of this Act and any other statutory provision establishing any administrative or enforcement function.

PART XII**SUSPENSION AND TERMINATION OF CONTRACTS OF EMPLOYMENT*****Application of this Part***

69. (1) This Part of the Act applies to every contract of employment concluded in Swaziland and to be performed wholly within Swaziland.

(2) An employee whose contract of employment is suspended or terminated under this Part is not precluded by any provision in this Part from disputing the fairness of the suspension or termination of that contract, either in terms of Part XIII of this Act, or any other law.

Suspension of employee who is remanded in custody

70. (1) If an employee is remanded in custody, the employer may suspend that employee without pay.

(2) If an employee who is suspended in terms of subsection (1) is subsequently acquitted of the charge and any other related charges for which the employee was remanded in custody, the employer shall lift the suspension, but is not obliged to pay any wages to the employee for the period that the employee was in custody.

(3) Notwithstanding the provisions of subsection (2), the employer shall pay to the employee an amount equal to the wages that the employee would have earned during the period of suspension-

(a) if the employee was remanded in custody because the employer laid a complaint in relation to the employment of the employee naming the employee as an accused; and

(b) if the employee is subsequently acquitted of that charge or any other related charges.

Suspension of an employee who is suspected of misconduct

71. (1) An employer may suspend an employee from employment, on full pay, if the employer reasonably suspects that the employee has committed an act, which if proved, would justify the dismissal of the employee.

(2) If the employee is found guilty of the act for which the employee was suspended under subsection (1), the employer may recover any money paid to the employee from any benefits accruing or due to the employee.

(3) If the employee is found not guilty, the employer shall lift the suspension.

Probationary employees

72. Either the employer or the employee may terminate a contract of employment without notice, during any period of probation established in terms of this Act, a contract of employment or a collective agreement.

Periods of notice by employer and employee

73. (1) Once an employee has completed any period of probation, a contract of employment may be terminated by either the employer or the employee giving notice to the other of not less than -

- (a) 1 week, if the employee has been continuously employed for less than 3 months;
- (b) 2 weeks, or 2 days for each completed month (whichever is the greater) if the employee has been employed for more than 3 months but for 12 months or less; or
- (c) the same notice required by paragraph (b), plus 4 days additional notice for each completed year of continuous employment, if the employee has been continuously employed for more than 12 months.

(2) Notwithstanding any other provision in this section, if an employee has completed any period of probation and is employed on a contract of employment which provides for the payment of wages at monthly or fortnightly intervals, the employer shall give the employee a minimum period of notice of termination of employment of 1 month or a fortnight, as the case may be.

(3) An employee who has been continuously employed for more than 3 months shall give the employer a notice of at least 1 week or any longer period specified in -

- (a) any written particulars of employment issued in terms of section 22;
- (b) any contract of employment; or
- (c) a collective agreement that applies to the employee.

(4) A period of notice given in terms of this section commences on the working day following the day on which the notice is served.

(5) Nothing in this section prevents either an employer or an employee from terminating a contract of employment by paying to the other party, in lieu of notice, an amount equal to the basic wages that the employee would have earned during the notice period.

(6) During the period of notice given by an employer in terms of this section, the employee is entitled, without any reduction in wages, to be absent from work for 12 hours each week, to seek other employment.

(7) The time off to which an employee is entitled in terms of subsection (6) shall be agreed between the employee and the employer and may be taken in one or more complete days during the period of notice.

(8) Nothing in this section affects the right of an employer or an employee to terminate a contract of employment without notice for a reason that warrants the immediate termination of the employment relationship.

(9) An employee who is dismissed without notice is entitled to the wages due up to and including the date on which the contract of employment terminated.

Severance allowance

74. (1) Subject to the provisions of subsections (2), (3) and (6) if the services of an employee are

terminated by the employer other than under the provisions of section 81 the employee shall be paid, as part of the benefits accruing under the contract of service, a severance allowance amounting to the wages of ten working days for each completed year in excess of one year that the employee has been continuously employed by that employer.

(2) If an employer terminates the services of an employee other than under section 801(a) - (k), or if an employee dies while in employment, the employee or the estate of the employee (as the case may be) shall be paid a severance allowance

(3) Any period of employment prior to 1 January 1968 shall be disregarded when calculating the amount of the severance allowance to which an employee is entitled under subsection (2).

(4) If any employer operates or participates in, and makes any contribution to any gratuity, pension or provident fund (other than the Swaziland National Provident Fund established by the Swaziland National Provident Fund Order, 1974) that is operated for the benefit of employees, the employer on termination of employment of an employee, shall be repaid from the gratuity, pension or provident fund, an amount equal to the total contribution of the employer to that gratuity, pension or provident fund in respect of the employee who is entitled to severance allowance under this section.

(5) The amount of the repayment under subsection (4) may not exceed the total amount of the severance allowance paid by the employer under subsection (2).

(6) An employee whose employment is terminated in the circumstances contemplated by section 81 (a) to (k) is not entitled to a severance allowance in terms of this section.

Payment for accrued annual leave when employment is terminated

75. (1) If the employment of an employee is terminated after the employee has been employed for more than 3 months but for less than 1 year, the employer shall, on or before the date on which the employment of an employee is terminated, pay that employee an amount equal to at least the wages of 1 day for every completed month of employment.

(2) If the employment of the employee is terminated after the completion of an annual leave cycle in respect of which the employee has taken annual paid leave, the employer shall, on or before the date on which the employment of the employee is terminated, pay that employee an amount equal to the wages of at least 1 day for every completed month of employment in the current annual leave cycle of that employee.

(3) If the employment of the employee is terminated after the completion of an annual leave cycle in respect of which the employee has not taken the paid annual leave accrued in that cycle, the employer shall, on or before the date on which the employment of an employee is terminated, pay that employee an amount equal to-

(a) the wages due in respect of annual paid leave accrued during the previous annual leave cycle but not taken; and

(b) the wages of at least 1 day for each completed month of employment during the current annual leave cycle.

(4) Any payment made in terms of this section shall be paid in addition to payment of all or any part of the wages of the employee for any period during which the employee is entitled to continue in employment after notice of termination of employment has been given.

Certificate of employment

76. On termination of employment of an employee, the employer shall issue a certificate, at the request of the employee, specifying-

- (a) the dates between which the employee was employed; and
- (b) the nature of the work in which the employee was engaged.

Employer to give notice of redundancy

77. (1) In this section the term "employee" does not include any person-

- (a) engaged on a seasonal contract; or
- (b) engaged on a fixed term contract for a period of six weeks or less and which does not provide for re-engagement at the end of that period.

(2) If an employer contemplates terminating the contracts of employment of five or more employees for reasons of redundancy, the employer shall give notice of at least 1 month in writing to the Commissioner and to any organisation that has been recognised or is a party to a collective agreement or where no organisation is recognized, such notice shall be given to the individual employees.

(3) A notice in terms of subsection (2) shall include -

- (a) the number of likely redundant employees;
- (b) the occupations and remuneration of the employees affected;
- (c) the reasons for the redundancies;
- (d) the date when the redundancies are likely to take effect; and
- (e) the latest financial statements and audited accounts of the undertaking.
- (f) Options that have been looked into to avert or minimize the redundancy

(4) After giving notice in terms of subsection (2), the employer shall consult with the organisation (if any) which is a party to any recognition or collective agreement, about avoiding or minimizing the effects of the contemplated terminations.

Repatriation of employees

78. (1) If an employee has been transported to the place of employment by the employer or by a person acting on behalf of the employer and the contract of employment of the employee is subsequently terminated by the employer for any reason, the employer shall bear the cost of repatriating the employee by reasonable means to the permanent residence of the employee as recorded in the written particulars of employment or contract of employment of the employee.

(2) The expenses of repatriation shall include-

- (a) the cost of traveling and subsistence expenses for the journey; and

- (b) the subsistence expenses during the period, if any, between the date of the termination of the contract and the date of repatriation.

PART XIII

UNFAIR DISMISSAL

Application of this Part

79. (1) This Part applies generally except to an employee-

- (a) who has not completed a period of probation established in terms of this Act, a contract of employment or a collective agreement;
- (b) who is required to work for the employer less than 21 hours in each week;
- (c) employed in an undertaking in which only members of the immediate family of the proprietor are employed;
- (d) who is employed for a fixed term and whose contract of employment has expired by the effluxion of time; or
- (e) whose contract of employment terminated by the operation of law.

(2) In this Part, and subject to subsection (1), a dismissal is-

- (a) a termination of employment, with or without notice, at the initiative of an employer;
- (b) a termination of employment by an employee, with or without notice, because the employer conducted itself in a way that the employee could not reasonably be expected to continue in employment.

Employee not to be unfairly dismissed

80. (1) An employer may not unfairly dismiss an employee.

(2) The dismissal of an employee is unfair if the reason for dismissal is any one or more of the following-

- (a) the employee is a member of an organisation;
- (b) participation in the activities of an organisation outside working hours or, with the consent of the employer, within working hours;
- (c) the employee seeks office as, or is acting or has acted in the capacity of, an employee representative;
- (d) the filing in good faith of a complaint or the participation in a proceeding against an employer involving any alleged violation of any law or the breach of the terms and conditions of employment under which the employee is employed;
- (e) the colour, gender, race, religion, marital status, national origin, pregnancy or intended pregnancy, sexual orientation, sex, tribal or clan extraction, political affiliation or opinion, culture, language, trade union or staff association affiliation, social status,

HIV status or health status of the employee;

- (f) the inability of the employee to carry out normal duties because of a medical condition brought about by work performed for the employer -
 - (i) where a medical practitioner has certified that the employee is incapacitated;
 - (ii) unless the employer proves that there is no suitable alternative employment to offer that employee; and
- (g) the absence of the employee from work for a period of 6 months or less, on account of any accident or injury arising out of employment -
 - (i) where a medical practitioner has certified that the employee is incapacitated;
 - (ii) unless the employer proves that it was necessary to permanently replace the employee at the time.

Fair reasons for dismissal or other disciplinary measures

81. An employer may dismiss or impose some appropriate lesser penalty on an employee for any one or more of the following reasons-

- (a) a failure to meet required standards of conduct or work performance, after written warning, in circumstances in which the employer cannot reasonably be expected to continue to employ that employee;
- (b) theft, fraud or any other dishonest act;
- (c) violence or ill-treatment towards the employer, or towards any member of the family of the employer or any other employee of the undertaking in which the employee is employed, or any threat to commit violence or other ill-treatment;
- (d) willful damage to the buildings, machinery, tools, raw materials or other objects connected with the undertaking in which the employee is employed;
- (e) acting imprudently or carelessly, and endangering the safety of the undertaking or any person employed or resident in the undertaking;
- (f) willful disclosure of manufacturing secrets or matters of a confidential nature to another person, in circumstances where the disclosure is likely to harm the employer;
- (g) absence from work for more than a total of 3 working days in any period of 30 days without either the permission of the employer, or a certificate signed by a medical practitioner certifying that the employee was unfit for work on those occasions;
- (h) a refusal either to adopt safety measures or follow the instructions of the employer in regard to the prevention of accidents or disease;
- (i) committal to prison and the consequent inability to perform obligations under a contract of employment;
- (j) an inability to continue in employment without contravening this Act or any other law;

- (k) any other substantial reason which entails for the employer or the undertaking similar detrimental consequences to those set out in this section in the light of the position held by the employee;
- (l) the redundancy of the employee, unless the employee was selected for redundancy for a reason specified in section 80(2)(a), (b) or (c) of this Act, in which case the dismissal or other prejudicial action is unfair; or
- (m) because the employee has attained the age which, in the undertaking in which the employee was employed, is the normal retirement age for employees in the position in which the employee is engaged.

Unfair dismissal claims

82. (1) For the purposes of this section 'date of dismissal' is the date on which the contract of employment terminates.

(2) A dismissed employee shall file an unfair dismissal complaint with CMAC within 18 months from the date of dismissal.

(3) A complaint filed under subsection (1) is deemed to be a dispute reported to the CMAC under section 76 of the Industrial Relations Act, 2000 and the provisions of sections 76 to 85 of that Act apply, with the changes required by context or as may be necessary.

Burden of proof in dismissal disputes

83. In any proceedings under this Part -

- (a) the employee shall establish-
 - (i) that the claim was filed in time; and
 - (ii) the existence of a dismissal;
- (b) the employer shall prove-
 - (i) that the reason for dismissal was a reason recognised by section 81; and
 - (ii) that it was reasonable to dismiss the employee, taking into account all the circumstances of the case.

PART XIV

UNFAIR LABOUR PRACTICE

84. (1) In this section, an unfair labour practice means any unfair act or omission that arises between an employer and an employee involving -

- (a) unfair conduct by the employer relating to the promotion, demotion, probation (excluding dismissals for a reason relating to probation) or training of an employee or relating to the provision of benefits to an employee;
- (b) the unfair suspension of an employee or any other unfair disciplinary action short of dismissal in respect of an employee; or

- (c) a failure or refusal by an employer to reinstate or re-employ a former employee in terms of any agreement.

(2) If the Industrial Court or arbitrator appointed in terms of the Industrial Relations Act determines that an employer has committed an unfair labour practice, the Court or arbitrator may make any order that the Court or arbitrator deems fit, including reinstatement, re-employment or compensation

(3) All unfair labour practice disputes shall be reported and determined in terms of Part VIII of the Industrial Relations Act.

PART XV

TRANSFER OF A BUSINESS

Payment of all benefits before transferring business

85. (1) An employer (the old employer) may not transfer a business or any part of a business, as a going concern, to any other employer (the new employer) unless the old employer first pays to its employees the wages and benefits that have accrued to them as at the date of the transfer.

(2) On transfer of the whole or part of a business in terms of subsection (1), the employment of the employee with the old employer terminates, and any service provided by an employee to the new employer shall not be considered as continuous service.

(3) Subsections (1) and (2) do not apply-

- (a) where the old employer and new employer conclude an agreement in terms of subsection (4); or
- (b) where new employer lodges a guarantee in terms of subsection (6).

(4) The old employer-

(a) may agree with the new employer to a valuation as at the date of transfer of -

- (i) the leave pay accrued to the employees of the old employer;
- (ii) the severance pay that would have been payable to the employees of the old employer in terms of this Act; and
- (iii) any other payments that have accrued to the employees of the old employer but have not been paid to those employees;

(b) may conclude a written agreement with the new employer that specifies -

- (i) which employer is liable for paying any amount referred to in paragraph (a) and in the case of the apportionment of liability between them, the terms of that apportionment; and
- (ii) the provisions made for any payment contemplated in paragraph (a) in the event that any employee becomes entitled to receive a payment;

- (c) shall disclose the terms of the agreement contemplated in paragraph (b) to each employee who after the transfer becomes employed by the new employer; and
- (d) shall take any other measure that may be reasonable in the circumstances to ensure that adequate provision is made for any obligation on the new employer that may arise in terms of paragraph (a).

(5) For a period of 12 months after the date of the transfer of the business, the old employer is jointly and severally liable with the new employer to any employee who becomes entitled to receive a payment contemplated in subsection (4)(a) unless the old employer is able to show that it has complied with all of the provisions of subsection (4).

(6) The new employer may offer a written guarantee, which is understood by and acceptance to:-

- (a) any staff association or trade union representing affected employees; or
- (b) the employees themselves, if there is no staff association or trade union.

(7) A guarantee offered in terms of subsection (6)(a) shall warrant that all benefits accruing at the time of the termination of the previous employment of the employee will continue to accrue in the new employment as if no termination of employment has occurred.

(8) The new employer shall lodge any guarantee offered in terms of this section with the Commissioner.

PART XVI

FOREIGN CONTRACTS OF EMPLOYMENT: RECRUITMENT AND REGULATION OF LABOUR AGENTS

Application

86. This Part applies to the recruitment in Swaziland of persons to be employed in another country, and to contracts of employment (referred to in this Part as 'foreign contracts') to be performed in another country.

Restriction on recruitment

87. (1) A person may not recruit anyone who is under the age of 18 years, for employment in another country

(2) A public officer may not recruit any person for employment in another country whether directly or indirectly.

(3) A chief, umgijimi, indvuna or a competent authority may not-

- (a) perform the functions of a labour or recruiting assistant;
- (b) induce any person to enter into a foreign contract of employment; or
- (c) receive any remuneration or inducement for assistance in recruiting any person for employment under this part.

Licensing of labour agents

87. (1) A person may not act as a labour agent unless that person has a licence of a labour agent issued in the approved form by the Commissioner.

(2) The licence of a labour agent-

(a) expires on 31 December in the year in which the licence was issued; and

(b) may not be transferred from one person to another.

(3) The Minister may, after consultation with the Labour Advisory Board and by notice in the Gazette-

(a) establish different categories of persons to whom a licence of a labour agent may be issued; and

(b) prescribe a fee payable for a licence of a labour agent in each category.

Conditions of a licence of a labour agent

89. (1) A licence of a labour agent may be issued subject to any conditions that the Commissioner may impose, including-

(a) the geographical limits within which recruiting may be conducted;

(b) the number of persons to be recruited; and

(c) any other conditions that the Commissioner considers reasonable.

(2) A labour agent may not act except in the manner authorised by the licence or as provided by subsection (3), and may not exercise any rights granted by the licence in any urban area or on any private property except with the consent of the owner of that property.

(3) Notwithstanding the provisions of subsection (2), a labour agent may recruit persons in an urban area if those persons present themselves for recruitment at the place of residence or business of the labour agent located inside an urban area.

(4) A labour agent who is in possession of a licence issued in terms of this section and who contravenes any term of the licence or any provision of this section shall, in addition to any penalty imposed for the offence, forfeit the licence issued to that agent.

Recruiting assistants

90. (1) A labour agent who wishes to employ any person as a recruiting assistant shall apply to the Commissioner in the approved form.

(2) If the Commissioner approves an application made under subsection (1), the Commissioner shall issue a permit to the person named in the application.

(3) A labour agent may not employ a recruiting assistant unless the assistant is in possession of a valid permit.

(4) The following provisions apply to the permit of a recruiting assistant-

(a) a permit may not be valid for a longer period than 12 months and in any event shall expire on 31 December in the year in which the permit was issued, or the date on which the licence issued to the labour agent employing the recruiting assistant expires, whichever date occurs first;

(b) a permit is not transferable; and

(c) a permit is valid only for so long as the licence held by the labour agent employing the recruiting assistant remains in force.

(5) The Minister may by notice published in the Gazette prescribe the fees payable for the permit of a recruiting assistant

(6) The Commissioner may, at any time, cancel a permit issued under subsection (2) where -

(a) the Commissioner is of the opinion that the recruiting assistant has committed any act of misconduct that renders it undesirable for the assistant to continue to be employed in that capacity;

(b) the recruiting assistant is convicted of an offence under this Act; or

(c) the Commissioner is of the opinion that it is undesirable that the recruiting assistant should continue to be employed in that capacity.

(7) Where a labour agent ceases to employ a recruiting assistant or where the Commissioner cancels a permit issued to a recruiting assistant in terms of subsection (4), the labour agent shall return to the Commissioner the permit issued to the recruiting assistant, either by hand or by registered post.

(8) The Commissioner may refuse to issue or renew the permit of a recruiting assistant.

Unauthorised recruiting assistants

91. A person who is not in possession of a valid permit issued in terms of section 87 may not canvass or recruit any persons on behalf of a labour agent.

Liability for acts of recruiting assistants

92. (1) A labour agent is responsible for any act done or representation made by a recruiting assistant within the scope of the employment of that assistant.

(2) Notwithstanding the provisions of subsection (1), if any act was done or representation was made with the knowledge of the labour agent, the agent is personally liable for any penalties that are prescribed for that act or representation.

(3) On conviction of a labour agent under subsection (2), the permit issued to the recruiting assistant is automatically forfeited and shall be delivered without delay, by hand or registered post, to the Commissioner.

Application for a licence of a labour agent.

93. (1) An application for a licence of a labour agent, or for the renewal of a licence, shall be submitted in the approved form and accompanied by a written statement signed by each employer on whose behalf the labour agent proposes to recruit.

(2) The application form shall provide the following particulars-

- (a) the name and address of the employer;
- (b) the nature of the proposed employment;
- (c) the wage rates at which employees will be engaged;
- (d) a summary of other terms and conditions of employment to be offered to employees;
and
- (e) any further information that the Commissioner may require.

(3) Before issuing or renewing a licence of a labour agent, the Commissioner shall be satisfied that the applicant is a fit and proper person to carry out the functions of a labour agent.

(4) The Commissioner may-

- (a) require the applicant to furnish and maintain, as a guarantee for proper conduct, any financial or other security that the Commissioner considers appropriate; and
- (b) after consultation with the Labour Advisory Board, require the applicant to furnish security in Swaziland for the payment of wages which may become due to persons to be recruited by the labour agent.

(5) The Commissioner has the sole discretion to refuse to issue or to renew a licence of a labour agent.

(6) A person may appeal to the Minister against the decision of the Commissioner within 14 days of receipt of that decision.

(7) The decision of the Minister on the appeal is final.

Revocation or suspension of the licence of a labour agent.

94. (1) The Commissioner may revoke or suspend the licence of a labour agent where the Commissioner is satisfied that the agent-

- (a) has failed to furnish any security required by the Commissioner; or
- (b) has behaved in a manner that renders the continued holding of a licence undesirable.

(2) A person whose licence is revoked or suspended under subsection (1) may, within 7 days of being notified in writing of the revocation or suspension, appeal in writing to the Minister.

(3) Where an appeal is lodged, the revocation or suspension of the licence of a labour agent is stayed until the Minister has made a decision on the appeal.

(4) The decision of the Minister on any appeal lodged in terms of this section is final.

(5) Where the licence of a labour agent has been revoked in terms of this section, the labour agent shall immediately deliver the licence to the Commissioner by hand, or by registered post, together with all current permits issued to recruiting assistants employed by the labour agent.

Production of licences and permits

95. The Commissioner, an Inspector or an administrative officer may at any time demand that a person performing the functions of a labour agent or a recruiting assistant, produce a licence or permit issued in terms of this Part.

Court may order payments to be made from security

96. A court may, in its discretion, order that any security furnished in terms of section 93(4) or any portion of that amount as may be sufficient, be applied toward the payment of the sum of money or the fine as the case may be, where-

- (a) a person who has been recruited by a labour agent sues the labour agent for any cause connected with a contract of employment and the court awards that person a sum of money whether in satisfaction of a debt or for wages or damages or costs; or
- (b) a labour agent fails to pay a fine imposed under the provisions of this Act.

Forms, documents and records to be kept by labour agents

97. Every labour agent shall maintain the following records in respect of all persons recruited by that agent-

- (a) copies of all contracts of employment attested under the provisions of section 100, filed chronologically; and
- (b) a record of every person, who during the term of a contract of employment dies or suffers any injury resulting in permanent incapacity, (including incapacity resulting from cardio-respiratory diseases), listing -
 - (i) the name and home address of the employee;
 - (ii) the name and address of employer;
 - (iii) in the case of a deceased person, the date and cause of death and the name and address of any dependants, and in the case of an injured person, the date of the injury and the degree of incapacity;
 - (iv) the amount of any compensation, wages, deferred pay or other money due to any person mentioned in subparagraph (iii); and
 - (v) the date and method of settlement of all claims relating to wages, deferred pay, workmen's compensation or other payments due to any person or the dependants of any person mentioned in subparagraph (iii).

False representation

98. A person may not induce any other person to become employed, either -:

- (a) by making a representation as to terms and conditions that are known to be false, or
- (b) by making any promise as to terms and conditions of employment that the person knows are not capable of being fulfilled, or has no intention of fulfilling.

Advances

99. (1) A person who engages in recruiting under this Part may make an advance of wages limited to one third of the contracted or promised monthly wage.

(2) For the purposes of this section, a person is deemed to engage in recruiting if that person enters into a foreign contract of employment with an employee.

(3) A labour agent or employer shall not authorise a recruiting assistant to make an advance to an employee.

Particulars in foreign contracts and requirements as to attestation

100. (1) Every contract of employment under this Part shall be signed by the parties to the contract and attested by an attesting officer.

(2) Each contract shall consist of-

- (a) the original document, which shall be given to the employer;
- (b) copies of the contract which shall be distributed as follows -
 - (i) one copy to the employee;
 - (ii) one copy to the labour agent (if any); and
 - (iii) one copy to be retained by the attesting officer.

(3) The following particulars shall be included in each contract-

- (a) the name of the employer or group of employers, and, if practicable, the name of the undertaking and the place of employment;
- (b) the name of the employee, place of origin of the employee, address and all particulars necessary to identify the employee;
- (c) the nature of the employment;
- (d) the duration of the contract;
- (e) the rate of wages and the method of calculating wages;
- (f) the manner and intervals of payment of wages;
- (g) the advances, if any, given to the employee and the manner of repayment of advances;
- (h) the conditions of repatriation;
- (i) provision for the payment of not less than half wages to the employee during any period for which a qualified medical practitioner certifies that the employee is unable, for reasons of sickness, to carry out the employment set out in the contract; and
- (j) any special conditions of the contract.

(4) A contract of employment may not be attested unless the attesting officer is satisfied that-

- (a) the contract is in proper legal form;
- (b) the terms of the contract comply with this Act;
- (c) the terms of the contract have been fully understood by the employee before the employee signs the contract or otherwise indicates agreement to its terms; and
- (d) the employee has been certified medically fit to perform duties under the contract.

(5) The Minister may, by notice in the Gazette, prescribe the fee for the attestation of each contract of employment.

(6) The employer shall pay the prescribed fee to the attesting officer and may not recover the fee, directly or indirectly, from an employee.

(7) The attesting officer shall, on payment of the prescribed fee-

- (a) affix to the copy of the contract to be retained by the attesting officer under the provisions of subsection (1) a "face value" receipt of the amount of the fee; and
- (b) cancel the receipt.

(8) The employer or the labour agent responsible for the recruitment shall send a copy of every contract of employment to the Commissioner within 14 days of the day on which the contract is concluded.

(9) The Commissioner shall record the contents of each contract in a register kept for that purpose.

Paid annual leave

101. If a contract of employment is concluded for a period of more than 1 year, the contract shall entitle the employee, at the expense of the employer to return to Swaziland after each period of 12 months employment, on full pay, for a period of not less than 2 weeks, excluding any traveling time between the place of employment and the home of the employee in Swaziland.

Medical examination of employees

102. (1) When an employer brings a person before an attesting officer for attestation in terms of section 100, the employer shall produce to the attesting officer a certificate, signed by a medical practitioner, to the effect that the practitioner has examined the person and found that person to be in a sound state of health and physically capable of performing the duties referred to in the contract.

(2) The information referred to under subsection (1) shall be kept confidential.

Termination of contract

103. (1) A contract of employment under this Part terminates-

- (a) on the expiry of the agreed term of employment;

- (c) on the death of the employee before the expiry of the agreed term of employment;
- (d) by the mutual consent, expressed in writing, of the employer and the employee;
- (e) by the giving notice of 2 weeks by either party to the other; or
- (f) when the employee is unable to fulfil the conditions of the contract because of sickness or accident.

(2) If a contract of employment is terminated by the death of the employee, subject to subsection (3), any benefits or other payments owing out of that contract shall be assigned to the estate of the employee.

(3) The pension benefits of the deceased shall be paid in the following manner-

- (a) first, to any dependants; or
- (b) if there are no dependants, to any nominated beneficiary; or
- (c) if there is no nominated beneficiary, to any other beneficiary.

(4) If a contract of employment is terminated for any cause other than the death of the employee, the employer shall provide the employee with a written statement-

- (a) certifying that the employee has been paid all wages due up to and including the date of termination;
- (b) showing the amounts of any wages due to the employee which have been deferred during the period of the contract; and
- (c) setting out the arrangements for the payment of any compensation which may be due to the employee as a result of any accident or disease suffered by the employee during the course of employment.

(5) If a contract of employment is terminated because of the death of the employee, a statement containing the particulars referred to in subsection (4) shall be provided to the person administering the estate of the deceased employee.

(6) If a contract is terminated because of the sickness or death of the employee, or because of an accident to the employee suffered during the course of employment, a statement containing the particulars referred to in subsection (4) shall be delivered to the Commissioner and, if applicable, to the labour agent who signed the contract of employment on behalf of the employer.

(7) If the statement required by subsection (6) has not been delivered to the Commissioner within 4 weeks of the termination of the contract and the employee concerned has been recruited by a labour agent, the Commissioner may order the labour agent to provide the statement immediately.

Transport and welfare of employees

104. The employer or the labour agent, as may be applicable, shall at their own expense-

- (a) provide an employee with transport to the place of employment and for repatriation;

(b) take all necessary steps to ensure that -

- (i) the vehicles used to transport the employees are suitable for the purpose, in good sanitary condition and not overcrowded;
- (ii) if it is necessary to break the journey for the night, suitable accommodation is provided for the employees; and
- (iii) the employees are provided with everything necessary for their welfare, including food and drinking water.

Repatriation of employees

105. (1) The employer, or the labour agent, as may be applicable, shall at their own expense repatriate an employee who -

- (a) becomes incapacitated, by sickness or accident, during the journey to the place of employment;
- (b) is found, on medical examination, to be unfit for employment;
- (c) is not engaged after recruitment; or
- (d) is found to have been recruited by misrepresentation or mistake.

(2) An employee who was brought to the place of employment by the employer or a labour agent has the right to be repatriated, at the expense of the employer or the labour agent as the case may be, to the place of origin or engagement of the employee, whichever is the nearer to the place of employment -

- (a) on the expiry of the period of employment stipulated in the contract;
- (b) on the termination of the contract by reason of the inability of the employer to fulfil the contract; or
- (c) on the termination of the contract by agreement between the parties.

(3) The expenses of repatriation shall include subsistence expenses during the journey, and if applicable, for the period between the date of expiry of the contract and the date of repatriation, except in the case where the repatriation of the employee is delayed by the choice of the employee.

(4) If the member of the immediate family of an employee has been authorised to accompany the employee to the place of employment, the provisions of this section and section 104 shall, with the changes required by the context, apply to that member.

Printing of summaries in the English and siSwati languages

106. The Commissioner may print concise summaries of this Part of the Act in the English and siSwati languages and -

- (a) make these summaries available to affected employers and employees;
- (b) direct any employer or labour agent to post and keep a summary posted in a place

where the summary can be easily seen and read by persons who are being engaged on a foreign contract of employment.

Age of employees entering into contracts

107. A person shall not enter into a foreign contract of employment with a person who is under the age of 18 years.

Regulations

108. Without prejudice to the power of the Minister to make regulations under any other provision of this Act, the Minister may make regulations-

- (a) prescribing the security to be provided by an employer in respect of money deposited with the employer by an employee for safekeeping;
- (b) approving financial institutions in which money deposited by an employee with the employer may be placed.

PART XVII

PUBLIC AND PRIVATE EMPLOYMENT SERVICES

Interpretation

109. In this Part-

"private employment agency" means the business (whether or not it is carried on for profit or whether or not it is carried on in conjunction with any other business) of providing services or information for the purpose of finding employment in Swaziland with employers in Swaziland, or supplying employers with persons for employment by them; and.

"public employment exchange" means any office or place established by the Commissioner for any one or more of the following purposes-

- (a) maintaining a register or registers of persons seeking employment and of employers seeking to engage workers in Swaziland;
- (b) directing persons seeking employment to vacancies for which, by their training, skill and previous experience they may be suited;
- (c) collecting and providing information to work seekers regarding employment opportunities, and to prospective employers regarding work seekers; and
- (d) devising plans for special employment placement for persons with disabilities, or who have been declared redundant and who require vocational retraining.

Evidence of skill and experience and particulars of employment vacancies

110. (1) Any person who seeks employment through an employment exchange may be requested to produce any documents and other evidence of skill and experience, together with other particulars that may reasonably be required by the officer in charge of the exchange.

(2) Any person wishing to engage another person through a public employment exchange

shall provide the officer in charge of the exchange with full details of the conditions of employment offered, together with any other particulars that may reasonably be required.

Private employment agencies to be authorised

111. (1) A person may not carry on the business of a private employment agency without the written authority of the Commissioner.

(2) A person wishing to carry on a private employment agency shall apply in writing to the Commissioner

(3) The Commissioner may authorise a person to operate a private employment agency for any period and subject to any terms and conditions that the Commissioner considers desirable.

(4) The Commissioner may refuse any application to operate a private employment agency, and may suspend or cancel any authority issued under this section.

(5) Any person that has applied for authority to operate a private employment agency may appeal to the Minister if-

- (a) the application is refused by the Commissioner or
- (b) the person is aggrieved by any conditions attached by the Commissioner to any authority; or
- (c) the person is aggrieved by the cancellation or suspension of authority.

(6) The decision of the Minister on any appeal lodged in terms of subsection (5) is final.

Power to inspect etc

112. An Inspector may, in addition to any other powers conferred by this Act-

- (a) enter any premises used or to be used for, or in connection with the carrying on of a private employment agency, or any premises which the inspector has reasonable cause to believe are used for, or in connection with, the carrying on of a private employment agency;
- (b) inspect those premises and any records or other documents kept in pursuance of this Act; and
- (c) require any person on those premises to furnish any information that may reasonably be required for the purposes of ascertaining whether the provisions of this Act or any authority granted under section 111 are being observed.

Records and registers

113 Every person who is licensed to operate a private employment agency shall

- (a) keep all prescribed registers and records, and
- (b) submit all prescribed returns to the Commissioner

Restriction on charges

114. A person carrying on a private employment agency may not charge any prospective employer fees or expenses exceeding those contained in a scale of fees and expenses prepared by the Commissioner approved by the Labour Advisory Board and published in the Gazette by the Minister.

Exemptions

115. This Part applies generally except where-

- (a) any service is provided without charge by an organisation of employers or any organisation of employees for its members;
- (b) any business is carried on by a licensed labour agent for the purpose of engaging persons for employment on foreign contracts of employment; and
- (c) any business is carried on, or any services are provided by any person or classes of persons as may be prescribed.

Regulations

116. The Minister may make regulations for any of the following purposes-

- (a) regulating the conduct of employment exchanges;
- (b) regulating the conduct of, and the provision of services by private employment agencies in respect of persons seeking employment;
- (c) prescribing the forms and records to be used or kept by employment exchanges; and
- (d) prescribing the registers and records to be kept and the form of returns to be submitted by private employment agencies.

PART XVIII**LABOUR CLAUSES IN PUBLIC CONTRACTS*****Provisions etc. deemed to be included in public contract***

117. Every public contract is deemed to include and to incorporate the provisions contained in this Part as if they were expressly set out as conditions to be observed and performed on the part of either or both of the parties to the contract.

Wages to be paid and conditions of employment to be observed

118. A contractor shall pay rates of wages and observe hours and conditions of employment (referred to as established rates and conditions) that are not less favourable than those established by any collective agreement covering a substantial proportion of employees and employers in the trade or industry concerned in the contract.

Commissioner to prepare schedule of wages etc

119. In the absence of any established rates and conditions as defined in section 118, the

Commissioner shall, after consultation with the representatives of employers and representatives of employees in the trade or industry concerned, prepare a schedule of wages and conditions of employment to be observed in the execution of the contract, having regard to-

- (a) established rates and conditions of employment of persons employed in a similar capacity and in similar circumstances to those persons who are likely to be employed on the contract; or
- (b) in the absence of such established rates and conditions, fair standards of rates and conditions commonly recognised in respect of persons employed in a similar capacity and in similar general circumstances to those persons who are likely to be employed on the contract.

Contractor to certify wages and conditions

120. Before being awarded a public contract the contractor shall certify in writing that the wages and hours and conditions of work of persons to be employed by the contractor on the contract are not less favourable than-

- (a) the established rates and conditions as defined in section 118, or
- (b) if applicable, those contained in the schedule prepared by the Commissioner in accordance with section 119, as the case may be.

Industrial Court to decide questions on wages etc

121. (1) If any question arises as to whether or not the wages to be paid or the hours or other conditions of employment to be observed in the fulfilment of any contract awarded or to be awarded to any contractor are less favourable than the established rates and conditions as defined in section 118 or those contained in the schedule prepared by the Commissioner in accordance with section 119, the Commissioner shall refer the question to the Industrial Court.

(2) The Industrial Court in arriving at its decision on any question referred to it under subsection (1) shall have regard to-

- (a) any established rates and conditions, or
- (b) any agreement, custom, practice or award that may be brought to its notice relating to the wages, hours or conditions of work of persons employed in a similar capacity and in a similar trade or industry to that of the person to whom the matter relates.

Provisions applicable to sub-contracts

122. (1) Any sub-contractor to whom a contract has been sublet shall comply with all the conditions of the main contract and the main contractor is responsible for the observance of all contract conditions on the part of the sub-contractor.

(2) Any portion of the work to be performed on a contract may not be done at the home of any employee, except to the extent that the work is performed at home by practice or custom.

Contractor to file certificates

123. A contractor is not entitled to payment of any money which would otherwise be payable under the terms of the contract unless the contractor has filed, together with the claim for

payment, a certificate-

- (a) stating whether any wages due to employees are in arrears; and
- (b) stating that all the employment conditions of the contract are being observed.

Contractor to supply information

124. A contractor shall provide the Commissioner with all information that the Commissioner may require to satisfy the Commissioner that the contractor is complying with the provisions of this Part.

Commissioner may arrange for employees to be paid

125. (1) Where the Commissioner is satisfied that a contractor has defaulted in the payment of wages due to any employee employed on a contract, the Commissioner may, failing payment of the wages by the contractor, arrange for the payment of the wages to the employee out of any sum payable to the contractor under the contract.

(2) Any amount paid in terms of subsection (1) is deemed to be a payment to the contractor.

Contractor to display notices containing conditions of work

126. Every contractor shall display a notice containing the conditions of work printed in a form that can easily be read by all employees.

Failure to comply with this Part

127. If a contractor fails to comply with any of the requirements of this Part, the Government or other authority or statutory body may, on the recommendation of the Commissioner withdraw its approval of that contractor as an approved contractor for a period and on any conditions as the Government or other authority or statutory body may determine.

PART XIX

ADMINISTRATION AND ENFORCEMENT

Enforcement and Administration

128. The Commissioner is responsible to the Minister for the application, enforcement and administration of this Act and subject to the direction of the Minister for any other matters relating to employment.

Powers and duties of the Commissioner

129. In addition to any other powers or duties given to the Commissioner under this Act or any other law, the Commissioner-

- (a) has all the powers of an Inspector under the Act;
- (b) may receive, investigate and, if requested, conciliate on any question, dispute, complaint or grievance arising out of an employment relationship, whether or not it specifically falls to be dealt with under this Act;

- (c) shall provide information and advice to employers and employees on the application of this Act or any other law relating to employment;
- (d) shall prepare reports and statistics on employment as may be required by the Minister;
- (e) shall advise the Government on labour matters generally and industrial relations in particular; and
- (f) shall carry out any other duties as may be required of the Commissioner by the Minister.

Powers and duties of Inspectors

130. (1) Inspectors shall carry out inspections in or at workplaces, investigate compliance with the provisions of this Act, and carry out any other duties that they might be assigned.

(2) In addition to any other powers or duties given to or imposed on Inspectors by this Act or any other law, an Inspector shall -

- (a) periodically inspect places of employment as directed by the Commissioner
- (b) ensure that all laws relating to conditions of employment and the protection of employees in their occupations are being fully applied;
- (c) provide information and advice when necessary as to the means of complying with those laws, if necessary by fixing time limits within which an employer shall comply with any law;
- (d) bring to the notice of the Commissioner any difficulty or abuse relating to employment that is not covered by existing laws; and
- (e) make any studies and collect any data relating to employment as may be required by the Commissioner.

(3) An Inspector may-

- (a) at any reasonable time during the day or night, with or without notice, enter, examine and inspect -
 - (i) any premises or place in which the Inspector has cause to believe that any employee or recruit may be employed or housed, or which the Inspector believes to be otherwise liable to inspection;
 - (ii) any hospital or dispensary, or any latrines or other sanitary arrangements used or intended for use by employees;
 - (iii) any place in which food for the use of employees is stored, prepared or eaten, and take samples of any food;
- (b) require an employer to provide any information requested by the Inspector about the wages, hours of work or other conditions of employment of persons employed by that employer;
- (c) carry out any examination, test or other enquiry that the Inspector considers

necessary in order to be satisfied that the employer is complying with any applicable legal provision and, in particular, may -

- (i) question, alone or in the presence of witnesses, any employer or employee on any matter concerning the application of any law relating to employment in so far as it affects them, or apply for information to any other person whose evidence the Inspector may consider necessary;
- (ii) require the production of any books, registers or other documents required to be kept by this Act or any other law relating to employment and copy or make extracts from any books, registers or other documents and, if the Inspector considers it necessary or expedient, remove the book, register or other document;
- (iii) direct the posting of notices required by this Act or any other law relating to employment; and
- (iv) take or remove for purposes of analysis, samples of materials or substances used or handled by employees in the course of their employment, subject to the employer or the right of the representative of the employer to removal of samples or substances taken or removed for analysis.

(4) An Inspector may, when carrying out any inspection under the provisions of this section, be accompanied by any competent person, including a police officer, to enable the Inspector to carry out any duties under this Act.

(5) An Inspector shall, on the occasion of an inspection, notify the employer or the representative of the employer of the inspection, unless the Inspector considers that notice may be prejudicial to the performance of any duties prescribed by this Part.

(6) An employer shall, when requested by the Inspector or any employee, provide facilities for employees to communicate freely with the Inspector.

(7) If an Inspector removes a book, register or other document in terms of subsection (3)(c)(ii), the Inspector must provide a receipt to the employer or the representative of the employer.

Certificates of appointment

131. Every Inspector shall be given a certificate of appointment in the prescribed form and, when visiting any premises in the execution of duty, the Inspector shall, if required by an employer, employee or their representatives, produce the certificate as proof of identity.

Duties and obligations of Inspectors

132. (1) An Inspector shall not have any direct or indirect financial or similar interest in any undertaking liable to inspection by that Inspector.

(2) An Inspector shall not reveal any industrial or commercial secret or any manufacturing or management process which may have come to the knowledge of the Inspector in the course of duty.

(3) The obligation in subsection (2) extends beyond the period of appointment or employment of the Inspector in the public sector.

(4) An Inspector shall treat the source of any information or complaint concerning a breach of the provisions of this Act or any other law as confidential, even if that information or

complaint is the reason for an inspection, visit or enquiry.

(5) Subsection (4) does not apply to any information that an informant or complainant consents to disclose.

Securing an undertaking and compliance order

133. (1) An Inspector who has reasonable grounds to believe that an employer has not complied with any provision of this Act shall endeavour to secure a written undertaking by the employer to comply with the relevant provisions.

(2) An Inspector may endeavour to secure a written undertaking by the employer to comply with subsection (1) by-

- (a) meeting with the employer or a representative of the employer, or
- (b) serving a document, in the prescribed form, on the employer.

(3) In an endeavour to secure a written undertaking, the Inspector-

- (a) may seek to obtain agreement between the employer and employee as to any amount owed to the employee in terms of this Act;
- (b) may arrange for payment to an employee of any amount paid as a result of an undertaking;
- (c) may, at the written request of an employee, receive payment on behalf of the employee; and
- (d) shall provide a receipt for any payment received in terms of paragraph (c).

(4) If an Inspector has reasonable grounds to believe that an employer has not complied with the provisions of this Act or any Wages Orders issued in terms of the Wages Act, the Inspector may issue a compliance order.

(5) A compliance order shall set out-

- (a) the name of the employer and the location of every workplace to which it applies;
- (b) any provision of this Act or Wages Order with which the employer has not complied, and the details of the conduct constituting non-compliance;
- (c) any amount that the employer is required to pay to an employee;
- (d) any steps that the employer is required to take including, if necessary, the cessation of the contravention in question and the period within which those steps shall be taken; and
- (e) the maximum fine that may be imposed on the employer for a failure to comply with the provision of this Act or the Wages Order.

(6) The Inspector shall deliver a copy of the compliance order to the employer and to each employee affected by it, or to a representative of the employees.

(7) The employer shall comply with the compliance order within a reasonable period after the compliance order has been issued.

(8) An Inspector may not issue a compliance order in respect of an amount payable to an employee as a result of any failure to comply with a provision of this Act if-

- (a) the employee is covered by a collective agreement that provides for resolution by arbitration of disputes concerning amounts owing in terms of this Act;
- (b) the employee is employed in a category of senior managerial employees or a category in respect of which a notice has been issued in terms of section 7;
- (c) any proceedings have been instituted for the recovery of any amount payable or, if proceedings have been instituted, those proceedings have been withdrawn; or
- (d) the amount has been payable by the employer to the employee for longer than 12 months before the date on which a complaint was made to an Inspector by or on behalf of the employee or, if no complaint was made, the date on which an Inspector first endeavoured to secure a written undertaking by the employer in terms of this section.

(9) An employer may object to a compliance order by making representations in writing to the Commissioner* within 21 days of receipt of the order.

(10) After considering any representations by the employer and any other relevant information, the Commissioner-

- (a) may confirm, modify or cancel an order or any part of an order; and
- (b) shall specify the period within which the employer is required to comply with any part of an order that is confirmed or modified.

(11) The Commissioner shall serve a copy of the order on the employer and on each employee affected by it, or on the representative of the employees.

(12) If the Commissioner confirms or modifies the order or any part of a compliance order the employer shall comply with the order within a reasonable time.

(13) An employer may appeal to the Industrial Court against an order of the Commissioner within 21 days of receipt of the order of the Commissioner.

(14) The Commissioner may apply to the Industrial Court for a compliance order to be made an order of the Court if the employer has not complied with the order and has not lodged an appeal against the order.

Annual reports to be published.

134. (1) The Commissioner shall prepare and publish an annual report on the work and activities of the Department and submit the report to the Minister within a reasonable time after the end of the year to which it relates but in any case, within 12 months of the end of that year.

(2) Without prejudice to any other requirements which may be imposed by the Minister, the annual report shall deal with the following matters-

- (a) laws and regulations relevant to the work of the Department of Labour;
- (b) staff of the Department of Labour;
- (c) statistics of workplaces liable to inspection and the number of persons employed in those workplaces;
- (d) statistics of inspection visits;
- (e) statistics of offences against this Act or any other law relating to employment and penalties imposed;
- (f) statistics of industrial accidents;
- (g) statistics of occupational diseases; and
- (h) statistics of person-hours lost due to industrial action.

Supply of information

135. (1) For the purposes of compiling the report required by section 134 the Commissioner may require employers in writing to supply information in the form and manner required, and within a specified time.

(2) Information supplied to the Commissioner under this section may not be published except-

- (a) as part of the general statistical information contained in the annual report compiled under the provisions of section 134;
- (b) with the previous written consent of the person who supplied the information; or
- (c) for the purposes of a prosecution under this Act or any other law relating to employment.

(3) In any report, summary of statistics or other publication prepared from information supplied by employers under this section, information may not be disclosed or arranged in a manner that would enable the particulars to be identified as relating to any individual person or business.

Delegation of powers.

136. (1) The Commissioner may, with the consent of the Minister, delegate in writing to any competent person the exercise of any powers and the performance of any duties in relation to any matter or thing provided for by this Act.

(2) The Commissioner may continue to exercise a power or perform a duty notwithstanding any delegation in terms of subsection (1), and may cancel or suspend any delegation that has been effected.

Persons not required to supply incriminating information

137. Notwithstanding any provision of this Act relating to the questioning of any person or supply of information, a person may not be required to answer any question or supply any

information that tends to incriminate that person.

Instituting of proceedings

138. The Commissioner or an Inspector may institute proceedings in the name of the Commissioner against any person for any contravention of, or offence committed under, this Act and may appear in person or by representative and conduct those proceedings.

PART XX

GENERAL CONDITIONS, HEALTH AND SAFETY MEASURES

Application of this Part

139. Sections 140, 142 and 143 do not apply to the employment of a domestic worker.

Working conditions

140. 1) Every employer shall ensure that every workroom in which employees work is kept in a clean and sanitary condition and that in each workroom-

- (a) each employee is provided with not less than 14.8 cubic metres of air space and not less than 8.75 square metres of floor space;
- (b) there is adequate ventilation and circulation of fresh air;
- (c) there is adequate and suitable lighting; and
- (d) that windows and fanlights are kept clean and free from obstruction.

(2) Every employer shall ensure that-

- (a) there is an adequate supply of wholesome drinking water for employees at their place of work;
- (b) sufficient and suitable sanitary conveniences are available for employees at or near their place of work and that -
 - (i) the conveniences are adequately lit and ventilated;
 - (ii) the conveniences are kept in a clean condition; and
 - (iii) where applicable, and if more than six persons are employed, separate conveniences are provided for men and women.

(3) Every employer shall, if a substantial proportion of their work can be performed while sitting, provide suitable seating for employees.

First aid equipment and medical aid

141. (1) Notwithstanding any provision in any other Act relating to the availability or supply of first aid equipment at places of employment, every employer shall, at each place of employment provide-

- (a) adequate first aid facilities for the treatment of accidents; and
- (b) one or more suitably stocked first aid boxes, in the charge of a responsible person, which shall be readily available during working hours.

(2) The location of each first aid box and the name of the person in charge of the box shall be prominently displayed.

(3) Every employer shall at its own expense provide any prescribed first aid facilities as may be prescribed for employees and members of their families that live on the property of the employer.

(4) If an employer has reasonable cause to believe that any of its employees or any of their dependants living on the property of the employer is suffering from any serious injury or ailment the employer shall-

- (a) take all reasonable measures to obtain skilled medical aid for that person without undue delay; and
- (b) if required to do so by the Commissioner, Regional Administrator or any labour officer or medical officer, or in case of danger to life or serious illness, transport the person, as soon as reasonably practicable, to the nearest hospital where skilled medical attention is available.

(5) An employer is not liable for any medical or hospital fees charged for any treatment provided for the dependants of any employee under subsection (4) unless -

- (a) the employer specifically assumes liability for those fees; or
- (b) the employer is liable for the fees in terms of a contract of employment.

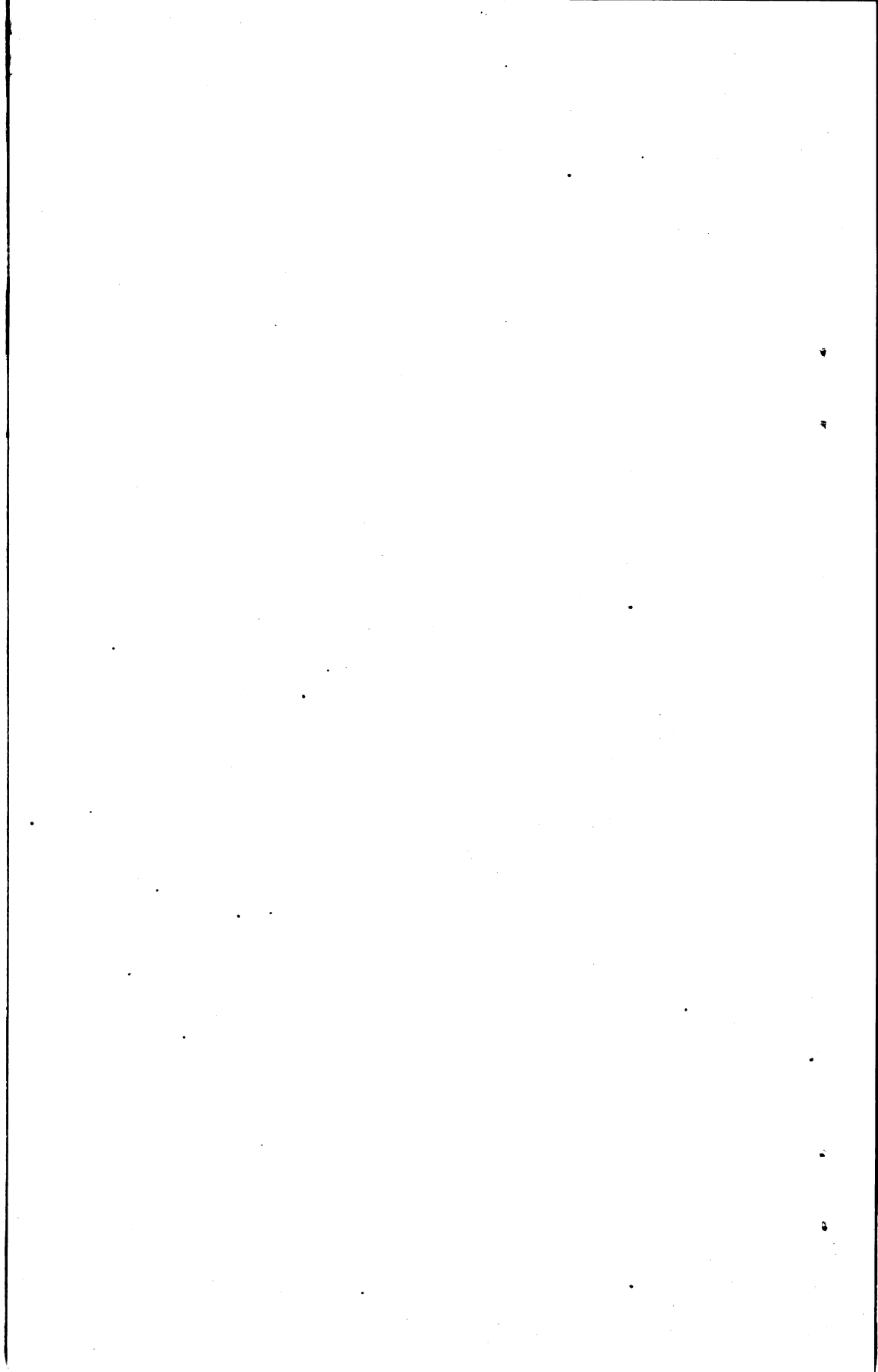
Housing

142. If an employee is employed in circumstances where it is impracticable, for reasons of distance, for the employee to return home or to the normal place of residence of the employee at the end of a day's work, the employer shall provide the employee with housing in the manner prescribed.

Feeding of employees

143. (1) If an employer was obliged to supply food in terms of section 98 of the repealed Employment Act of 1962 or any other Act, that employer is no longer obliged to do so but, in place of that obligation, the employer shall increase the basic wage of any employee who was entitled to be supplied with food by an amount equivalent to the value of the food supplied as at the date on which this Act comes into operation, or as the Minister may prescribe by notice.

(2) Nothing in this section precludes an employer from supplying rations to any employee in pursuance of an agreement between the employer and the employee.



PART XXI**GENERAL*****Records and registers***

144. (1) Every employer shall keep the following records and registers of all employees -

- (a) a wages register, containing in respect of each employee all the particulars which shall be given to an employee in terms of section 43;
- (b) a record of each employee containing the name, address, date of birth, the date of employment and, if applicable, the date of leaving employment of the employee;
- (c) the dates, if applicable, on which the employee was granted annual leave, sick leave or maternity leave;
- (d) the date on which the employee was issued with any written warning;
- (e) a register of all young persons and children containing all the details required by paragraphs (a) and (b); and
- (f) in the case of young persons employed in an industrial undertaking, the date and results of the medical examinations, supported by a medical certificate, carried out under the provisions of section 13.

(2) Records and registers kept by employers under the provisions of this section shall-

- (a) be written in ink or in typescript or in a mixture of such writing and type-script or any other manner prescribed by the Minister; and
- (b) be kept by the employer for a period of 3 years from the date of the last entry in the record or register.

Collective agreements

145. Every employer that is a party to a collective agreement covering the terms and conditions of employment of any of its employees shall, by fixing a notice in a place where it can be seen and read by all employees, indicate-

- (a) the existence of the agreement;
- (b) the parties who are signatories to it;
- (c) the dates of the commencement and expiry of the agreements; and
- (d) the place where a copy of the agreement can be examined.

Regulations

146. The Minister may by notice in the Gazette make regulations regarding any matter that is necessary or expedient to prescribe in order to achieve the objects of this Act.

Repeal

147. The Employment Act, 1980, as amended, is repealed.

Transitional arrangements

148. (1) Any exemption granted under section 6 of the Employment Act, 1980, and in force immediately before the commencement of this Act, remains in force for the period for which the exemption was granted; or if the exemption was granted for an indefinite period, until the exemption is varied or withdrawn by the Minister.

(2) Any licence granted in terms of the Employment Act, 1980, remains in force until the licence lapses or is withdrawn or varied by the appropriate authority in terms of this Act, whichever is the earlier.

(3) Any accrued leave to which an employee was entitled in terms of Part XII of the Employment Act, 1980, is deemed to have accrued under Part VIII of this Act.

PART XXII**OFFENCES AND PENALTIES*****Offences in terms of this Act***

149. (1) The following acts are offences, punishable on conviction to a fine not exceeding 3000 Emalangeni or to any other penalty as the court deems fit-

(a) in Part III -

employing a child or a young person in contravention of any of the provisions of that Part;

(b) in Part V -

exactng or imposing forced labour, or causing or permitting forced labour to be exacted or imposed in contravention of any of the provisions of that Part;

(c) in Part VI -

(i) failing or refusing to provide an employee with a completed copy of the form in the Schedule as required by section 22;

(ii) failing or refusing to notify the employee in writing of changes in the conditions of employment of that employee as required by section 25;

(iii) failing or refusing to submit to the Commissioner any document as required by section 25;

(d) in Part VII -

(i) failing to pay wages to an employee when those wages are due or payable;

(ii) paying wages to an employee in a form, manner or place which is contrary

to the provisions of that Part;

- (iii) making any deduction from the wages of an employee or receiving any payment from an employee contrary to the provisions of that Part;
- (iv) failing to provide an employee with the details of wages as required by section 43;
- (v) paying the wages of an employee, in whole or in part, in the form of liquor or noxious drugs;
- (vi) failing to distribute a service charge as required by section 34;

(e) in part VIII -

requiring or permitting an employee to work any hours in contravention of the maximum hours stipulated by that Part;

(f) in Part IX -

- (i) failing to grant an employee annual leave as required or failing to pay an employee the wages to which the employee is entitled under section 49;
- (ii) failing to pay to an employee any amount to which the employee is entitled in respect of paid sick leave under section 57;

(g) in Part X -

- (i) failing or refusing to grant an employee maternity leave or any additional maternity leave as required by that Part;
- (ii) failing or refusing to pay an employee for any period of maternity leave as required by that Part;
- (iii) terminating the employment of an employee or requiring an employee to resign in contravention of the provisions of that Part;

(h) in Part XII -

- (i) except where section 73(8) applies, failing or refusing to give an employee whose services are being terminated the minimum period of notice required by section 73;
- (ii) failing or refusing to allow an employee whose services are being terminated to be absent from work for the purpose of seeking other employment as required by section 73(6);
- (iii) terminating the contracts of employment of 5 or more employees for reasons of redundancy without giving prior notice of that termination as required by section 77.

(i) in Part XVI -

- (i) the contravention by a public officer, chief, indvuna or umgijimi, of section 87;

- (ii) recruiting of a person under the age of 18 years;
 - (iii) performing the function of a labour agent in Swaziland in contravention of section 88(1);
 - (iv) contravening the conditions of a licence of a labour agent;
 - (v) employment by a labour agent of a recruiting assistant in contravention of section 90(3);
 - (vi) failure by a labour agent to comply with the requirements of section 90(7);
 - (vii) canvassing or recruiting in contravention of section 91;
 - (viii) failure by a labour agent to comply with the provisions of section 94 (5);
 - (ix) failure by a labour agent or recruiting assistant to produce a licence or permit in terms of section 95;
 - (x) failure by a labour agent to maintain the forms, documents and records required to be maintained under section 97;
 - (xi) contravening the provisions of section 98;
 - (xii) advancing wages to an employee in contravention of section 99;
- (j) in Part XVII -
- (i) knowingly making any false statement or false representation to an officer of an employment exchange;
 - (ii) carrying on, after the appointed date, the business of a private employment agency without the written authority of the Commissioner ;
 - (iii) carrying on the business of a private employment agency and failing to keep or causing to be kept such registers and records or failing to submit such returns as may be required; and
 - (iv) demanding or directly or indirectly receiving, from any person any fee or charge, however described, for finding employment for that person and;
- (k) in Part XIX -
- (i) wilfully obstructing, hindering or delaying an Inspector in the exercise of any of the powers conferred by this Act;
 - (ii) without reasonable cause, failing to comply with any lawful direction given or made by an Inspector under this Act;
 - (iii) failing to produce any book, register or other document required to be produced under this Act;
 - (iv) concealing, or attempting to conceal, any employee who is required to appear before or be examined by an Inspector or otherwise preventing, or

attempting to prevent any such employee from so appearing or being examined;

- (v) wilfully or without lawful cause refusing or neglecting to supply within the specified time, information required by the Commissioner under section 129 read with section 130(3)(b);
- (vi) wilfully supplying or causing to be supplied to the Commissioner or an Inspector any false information;
- (vii) refusing to answer any question lawfully put by the Commissioner or an Inspector for the purposes of this Act;
- (viii) hindering or obstructing the Commissioner or Inspector in the exercise of any of the powers conferred by law.

Occupational health and safety

150. (1) Any employer who, after being informed, by notice in writing by an Inspector of any contravention of a provision of section 140 or section 141 and who fails to rectify that contravention within the time prescribed by the Inspector in the notice, is guilty of an offence, and liable on conviction to the same penalties that are provided under section 40 of the Occupational Safety and Health Act, 2001.

(2) Any employer who fails to keep any register or record in the manner required by section 144 shall be guilty of an offence and liable on conviction to a fine of 500 Emalangeni or to such other penalty as the court deems fit.

Penalty for official coercion

151. Any person who, acting in an official capacity, coerces any other person under the charge of that person, or any individual members of the population to work for any private individual, company or association is guilty of an offence and liable to a fine not exceeding 3000 Emalangeni or to imprisonment not exceeding one year, or both.

Criminal liability of officers of body corporate

152. (1) If there is reasonable cause to believe that an offence under this Act has been committed by a body corporate, criminal proceedings may be instituted against any person who at the time of the commission of the offence was a director, manager, secretary or other office bearer of the body corporate, or who was purporting to act in that capacity.

(2) Without prejudice to any other defence, if criminal proceedings are instituted against a person referred to in subsection (1) in respect of an offence committed by a body corporate, that person may not be convicted if it is proved that the offence was committed without consent or connivance, and that all diligence necessary to prevent the commission of the offence was exercised, having regard to the functions and capacity of that person and to all the circumstances relating to the commission of the offence.

LEGAL NOTICE NO. 31 OF 2007

THE SWAZILAND ELECTRICITY COMPANY ACT, 2007
(Act No. 1 of 2007)

**DATE OF COMMENCEMENT (THE SWAZILAND ELECTRICITY
COMPANY ACT, 2007) NOTICE, 2007**
(Under Section 1)

In exercise of the powers conferred by Section 1 of the Swaziland Electricity Company Act, 2007, the Minister for Natural Resources and Energy issues the following Notice -

Citation

1. This Notice may be cited as the Date of Commencement (The Swaziland Electricity Company Act, 2007) Notice, 2007.

Date of Commencement of the Swaziland Electricity Company Act, 2007

2. The Swaziland Electricity Company Act, 2007 shall come into force on the 1st March, 2007.

LUCY M. T. DLAMINI
PRINCIPAL SECRETARY

LEGAL NOTICE NO. 32 OF 2007

THE ENERGY REGULATORY AUTHORITY ACT, 2007
(Act No. 2 of 2007)

**DATE OF COMMENCEMENT (THE ENERGY REGULATORY
AUTHORITY ACT, 2007) NOTICE, 2007**
(Under Section 1)

In exercise of the powers conferred by Section 1 of the Energy Regulatory Authority Act, 2007, the Minister for Natural Resources and Energy issues the following Notice -

Citation

1. This Notice may be cited as the Date of Commencement (The Energy Regulatory Authority Act, 2007) Notice, 2007.

Date of Commencement of the Energy Regulatory Authority Act, 2007

2. The Energy Regulatory Authority Act shall come into force on the 1st March, 2007.

LUCY M. T. DLAMINI
PRINCIPAL SECRETARY

LEGAL NOTICE NO. 33 OF 2007

THE ELECTRICITY ACT, 2007
(Act No. 3 of 2007)

DATE OF COMMENCEMENT (THE ELECTRICITY ACT, 2007)
NOTICE, 2007
(Under Section 1)

In exercise of the powers conferred by Section 1 of the Electricity Act, 2007, the Minister for Natural Resources and Energy issues the following Notice -

Citation

1. This Notice may be cited as the Date of Commencement (The Electricity Act, 2007) Notice, 2007.

Date of Commencement of the Electricity Act, 2007

2. The Electricity Act, 2007 shall come into force on the 1st March, 2007.

LUCY M. T. DLAMINI
PRINCIPAL SECRETARY

