

# SWAZILAND

# GOVERNMENT GAZETTE

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VOL. LVI]

MBABANE, Friday, MARCH 09<sup>th</sup>, 2018

[No. 29A

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GENERAL NOTICE NO. 07 OF 2018

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

AUTHORIZATION OF CHANGE OF NAME NOTICE, 2018  
(Under Section 3)

In Exercise of the powers conferred by Section 3 of the Change of Name Act, 1962, the Minister of Home Affairs authorizes:

**SIBUSISO MAXWELL NKOSI to SIBUSISO MAXWELL GININDZA**

A resident of **Luhlendlweni Royal Residence** in the **Hhohho Region** to assume the surname **GININDZA**.

**PRINCIPAL SECRETARY**  
*MINISTRY OF HOME AFFAIRS*

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GENERAL NOTICE NO. 08 OF 2018

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

AUTHORIZATION OF CHANGE OF NAME NOTICE, 2018  
(Under Section 3)

In Exercise of the powers conferred by Section 3 of the Change of Name Act, 1962, the Minister of Home Affairs authorizes:

**THEMBA BONGANI ZWANE to THEMBA BONGANI DLAMINI**

A resident of **Mankayane Royal Residence** in the **Manzini Region** to assume the surname **DLAMINI**.

**PRINCIPAL SECRETARY**  
*MINISTRY OF HOME AFFAIRS*

GENERAL NOTICE NO. 09 OF 2018

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

AUTHORIZATION OF CHANGE OF NAME NOTICE, 2018  
(Under Section 3)

In Exercise of the powers conferred by Section 3 of the Change of Name Act, 1962, the Minister of Home Affairs authorizes:

**ZAKHELE PATRICK NJAPHA to ZAKHELE PATRICK VILAKATI**

A resident of **Maphalaleni Royal Residence** in the **Hhohho Region** to assume the surname **VILAKATI**.

**PRINCIPAL SECRETARY**  
*MINISTRY OF HOME AFFAIRS*

**NOTICE**

Notice is hereby given that **I, Lungile Dlamini ID 9511211100588** of **Kwaluseni - Manzini Region** intend to apply to the Honourable Minister of Home Affairs of the Kingdom of Swaziland for authorisation to assume the surname **Guludja** 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 **Guludja** is because it is my natural surname.

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

P. O. Box 109  
Kwaluseni

T154 4x09-03-2018

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**NOTICE**

Notice is hereby given that **I, Charles Sibongo Mavuso** of **Shiselweni Region** intend to apply to the Honourable Minister of Home Affairs of the Kingdom of Swaziland for authorisation to assume the surname **Ndaba** 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 **Shiselweni Region** and in the Government Gazette.

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

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

P. O. Box 89  
Nhlangano

T203 4x23-03-2018

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**NOTICE**

**ESTATE LATE: SOLOMIAH MBEKEPHI MYENI GUMBI  
FILE NO. EL16/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

EMMANUEL N. MYENI &  
JABULANI A. MYENI  
P. O. Box 1958  
Manzini

T248 09-03-2018

**NOTICE**

Notice is hereby given that we intend applying for a certified copy of: **Deed of Transfer No. 77/1982** registered on the 31<sup>st</sup> day of December, 1982 made in favour of:

**WILFRED RICHARD SHADRACK MTIMKULU**

(Born on the 10<sup>th</sup> October, 1933)  
ID No. 3310106000326  
Now deceased

In respect of the undermentioned property:

CERTAIN : Lot No. 542 situate in the Manzini Township, Extension No. 6, Manzini District, Swaziland;

MEASURING : 2234 (Two Two Three Four) square metres;

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

**DATED AT MANZINI ON THIS THE 15<sup>th</sup> DAY OF FEBRUARY, 2018.**

**ZONKE MAGAGULA & CO.**

Applicant's Attorneys  
2<sup>nd</sup> Floor, Bhunu Mall  
P. O. Box 590  
Nkosehlhaza Street  
Manzini

T220 09-03-2018

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**NOTICE**

**ESTATE LATE: LUPHONDLA WELLINGTON MIYA FILE NO. EM265/2016**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902** that the **First and Final Liquidation and Distribution Account** will lie open for inspection at the office of the Master of the High Court of Swaziland, **Manzini branch behind the Post Office (Old DC)** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

KHANYISELO MAMETSA  
P. O. Box 349  
Lobamba

T252 09-03-2018

**NOTICE**

**ESTATE LATE: GOLIDE CHRISTOPHER MNISI FILE NO. EL103/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

BAWINILE C. MNISI  
P. O. Box 213  
Lomahasha

T253 09-03-2018

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**NOTICE**

**ESTATE LATE: MDUDUZI VINCENT MASEKO FILE NO. EM294/16**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

SIBONGILE VILAKATI  
P. O. Box 5040  
Mbabane

T249 09-03-2018

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**NOTICE**

**ESTATE LATE: COLIN PETER WATSON FILE NO. EM308/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

PESCHE PETER GRAF  
P. O. Box 3161  
Manzini

T250 09-03-2018

**NOTICE**

Notice is hereby given that we intend applying for a certified copy of: **Deed of Transfer No. 361/1988** registered on the 21<sup>st</sup> day of September, 1988 made in favour of:

**CARMICHAEL INVESTMENTS (PTY) LTD**  
(Certificate of Incorporation No. 140/1972)

In respect of the undermentioned property:

CERTAIN : Erf. 274 situate in the Township of Nhlangano, District of Shiselweni, Swaziland;

MEASURING : 495 (Four Nine Five) 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** from the last publication of this notice.

**DATED AT MBABANE ON THIS THE 27<sup>th</sup> DAY OF FEBRUARY, 2018.**

**S.C. ZONDI ATTORNEYS**  
Attorneys fo Applicant  
Suite No. A13, Apex House  
Sheffield Road  
Mbabane

T222 2x09-03-2018

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**NOTICE**

**ESTATE LATE: ADELAIDE PHUMZILE DLAMINI NEE TEMBE**  
**FILE NO. EM239/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

LUNGA DLAMINI  
P. O. Box 2776  
Mbabane

T251 09-03-2018

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**NOTICE**

**ESTATE LATE: MAVIS NCAMSILE DLAMINI FILE NO. EL89/2012**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

VUSI NKHOSI  
P. O. Box 209  
Siteki

T254 09-03-2018

**NOTICE**

**ESTATE LATE: DUMISA ALFRED HLATSHWAYO FILE NO. EM256/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

MIRRIAM ZODWA SITHOLE  
P. O. Box 5365  
Manzini

T255 09-03-2018

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**NOTICE**

**ESTATE LATE: MARY TRYPHINAH MABUZA NEE MANANA  
FILE NO. EM213/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902** that the **First and Final Liquidation and Distribution Account** will lie open for inspection at the office of the Master of the High Court of Swaziland, **Manzini branch behind the Post Office (Old DC)** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

NKOSINATHI MABUZA  
P. O. Box 2210  
Manzini

T259 09-03-2018

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**NOTICE**

**SWAZILAND COMPANIES ACT NO. 8 OF 2009  
SECTION 62 (2)**

Notice is hereby given that I have reasonable cause to believe that the under mentioned company.

**MABONA INVESTMENTS (PROPRIETARY) LIMITED**

Incorporated under the laws of Swaziland, is not carrying on the business, the Directors and the Shareholders of the same company have applied for deregistration. The name of the aforesaid company, will unless cause is shown to the contrary at the end of the two months from the date hereof be **deregistered** and **struck-off the Swaziland Register of Companies**, and the company be dissolved.

**BARNABAS MATSEBULA**  
*FOR: REGISTRAR OF COMPANIES*

T260 09-03-2018

**NOTICE**

Notice is hereby given that we intend applying for a certified copy of: **Lease Agreement No. 96/2002** dated 28<sup>th</sup> October, 2002 and registered on the 13<sup>th</sup> November, 2002 made in favour of:

**ORAH NTOMBIKAYISE DLAMINI**  
(since deceased)

in respect of the undermentioned property:

CERTAIN : Lot No. 156 Glen Township situate in the District of Hhohho, Swaziland;  
MEASURING : 477 (Four Seven Seven) 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.

**M. J. MANZINI & ASSOCIATES**  
Attorneys for Applicant  
Sengwayo House  
P. O. Box A204  
Swazi Plaza

T239 2x-09-03-2018

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**NOTICE**

**ESTATE LATE: SIBUSISO SOLOMON DLAMINI**  
**FILE NO. EM247/2014**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902** that the **First and Final Liquidation and Distribution Account** will lie open for inspection at the office of the Master of the High Court of Swaziland, **Manzini branch behind the Post Office (Old DC)** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

SIFISO & NOKWANDA DLAMINI  
P. O. Box 1319  
Matsapha

T262 09-03-2018

**NOTICE**

**ESTATE LATE: NELISIWE TENELE MATSEBULA FILE NO. EP49/2015**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

NONHLANHLA CANDY MATSEBULA  
P. O. Box 23  
Ntfonjeni

T264 09-03-2018

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**NOTICE**

**ESTATE LATE: DUMISANI PAUL MKHATSHWA FILE NO. EP93/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

THEMBISILE ADELAIDE MKHATSHWA  
P. O. Box 512  
Manzini

T265 09-03-2018

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**NOTICE**

**ESTATE LATE: THOKOZILE MARGARET NTSHALINTSHALI NEE MNISI  
FILE NO. EM14/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

THANDIE H. NTSHALINTSHALI  
P. O. Box 2761  
Manzini

T258 09-03-2018

**NOTICE**

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 1412/2016

In the matter between:

SWAZILAND BUILDING SOCIETY

Plaintiff

and

BONGILE NOMPUMELELO CECELIA-ANN KANYA

Defendant

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**NOTICE OF SALE**

**NOTICE** is hereby given that pursuant to a **Writ of Execution** issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff, for the District of Hhohho, outside the High Court of Swaziland, Hospital Hill, **Mbabane** at **11:30 a.m.** on **FRIDAY** the **13<sup>th</sup> APRIL, 2018.**

- CERTAIN : PortionPortion 3 of Lot No. 47 situate in Goje Township in the District of Hhohho, Swaziland;
- MEASURING : 1120 (One One Two Zero) square metres;
- RESERVE PRICE : E2 450 000.00 (Two Million Four Hundred and Fifty Thousands Emalangeni);
- IMPROVEMENTS : House: 3 bedroom, dressing room, ensuite & bathroom, lounge .dining, kitchen, guest toilet and double garage.

Conditions of Sale are available for inspection at the office of the Sheriff in the High Court Building in Mbabane and at the offices of the Regional Administrator, Hhohho.

Further particulars may be obtained from the undersigned and the Plaintiff's Attorneys.

**DATED AT MBABANE ON THIS THE 22<sup>nd</sup> DAY OF FEBRUARY, 2018.**

**SHERIFF OF SWAZILAND**  
C/O The Registrar of the High Court  
Mbabane

T257 09-03-2018

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**NOTICE**

**ESTATE LATE: KHUMALO MPIYAKHE JOSEPH FILE NO. EP19/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

SIPHIWE THEMBEKILE DLAMINI  
P. O. Box 322  
Ndzingeni

T261 09-03-2018

**NOTICE**

Notice is hereby given that **I, Mxolisi Junior Sithole of Manyandzeni - Shiselweni Region** intend to apply to the Honourable Minister of Home Affairs of the Kingdom of Swaziland for authorisation to assume the surname **Kiwanuka** 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 **Shiselweni Region** and in the Government Gazette.

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

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

P. O. Box C954  
Hub, Manzini

T269 4x30-03-2018

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**NOTICE**

Notice is hereby given that **I, Wandile Mxolisi Mahoko of Motshane - Hhohho Region** intend to apply to the Honourable Minister of Home Affairs of the Kingdom of Swaziland for authorisation to assume the surname **Mabuza** 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 **Hhohho Region** and in the Government Gazette.

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

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

P. O. Box 569  
Siteki

T272 4x30-03-2018

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**NOTICE**

**ESTATE LATE: NOMSA QUEENETH DUBE FILE NO. EH231/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

NELISIWE CATHERINE DUBE  
P. O. Box 809  
Nhlangano

T263 09-03-2018

**NOTICE**

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 580/2013

In the matter between:

SWAZILAND DEVELOPMENT & SAVINGS BANK

Plaintiff

And

TASTY TREATS (PTY) LTD T/A TT TRUSSCON

1<sup>st</sup> Defendant

MDUDUZI PHINDA MAGONGO

2<sup>nd</sup> Defendant

THEMBINKOSI MHLANGA

3<sup>rd</sup> Defendant

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**NOTICE OF SALE**

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**NOTICE** is hereby given that pursuant to a **Writ of Execution** issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff, outside the High Court of Swaziland, in **Mbabane**, at **10:30 a.m.** on **FRIDAY** the **16<sup>th</sup>** day of **MARCH, 2018**.

CERTAIN : Portion 9 (a portion of Portion 39) of farm 75 situate in the District of Hhohho, Swaziland;

MEASURING : 9082 (Nine Zero Eight Two) square metres;

RESERVE PRICE : E 800,000-00 (Eight Hundred Thousand Emalangeni);

IMPROVEMENTS : Vacant.

Conditions of Sale are available for inspection at the office of the Sheriff in the High Court Building in Mbabane and at the offices of the Regional Administrator, Manzini.

Further particulars may be obtained from the undersigned.

**DATED AT MBABANE THIS 01<sup>st</sup> DAY OF FEBRUARY, 2018.**

**REGISTRAR OF THE HIGH COURT**

*MBABANE*

T256 09-03-2018

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**NOTICE**

**ESTATE LATE: NOMSA NELLIE MATHUNJWA FILE NO. EM306/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

THULIE PATIENCE NCONGWANE

P. O. Box 194

Matsapha

T275 09-03-2018

**NOTICE**

SWAZILAND COMPANIES ACT NO. 8 OF 2009  
SECTION 62 (2)

Notice is hereby given that I have reasonable cause to believe that the under mentioned company.

**MASIGIJIME ASSOCIATION**

Incorporated under the laws of Swaziland, is not carrying on the business, the Directors and the Shareholders of the same company have applied for deregistration. The name of the aforesaid company, will unless cause is shown to the contrary at the end of the two months from the date hereof be **deregistered** and **struck-off the Swaziland Register of Companies**, and the company be dissolved.

**BARNABAS MATSEBULA**  
*FOR: REGISTRAR OF COMPANIES*

T270 09-03-2018

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**NOTICE**

**ESTATE LATE: ZAMAZAMA NGESHE DLAMINI FILE NO. EP11/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

DLAMINI SICELU  
P. O. Box 69  
Piggs Peak

T266 09-03-2018

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**NOTICE**

**ESTATE LATE: SABELO NKONYANE FILE NO. EM291/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

NKOSINATHI NKONYANE  
P. O. Box D138  
The Gables

T267 09-03-2018

**NOTICE**

**ESTATE LATE: JAMES MUTSI SANGWENI FILE NO. EM147/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

NOMPUMELELO SANGWENI  
P. O. Box C331  
The Hub, Manzini

T268 09-03-2018

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**NOTICE**

**ESTATE LATE: MHLALISENI HEZEKIEL NHLENGETHWA  
FILE NO. EM10/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

LINDIWE NHLENGETHWA  
P. O. Box 15  
Luyengo

T271 09-03-2018

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**NOTICE**

**ESTATE LATE: URSULA FELICITAS FEENEY  
MASTER'S REFERENCE NO. EH155/2017**

Debtors and Creditors in the above mentioned estate are hereby called upon to lodge their claims and pay their debts to the undersigned within **thirty (30) days** of the date of publication of this notice.

**HENWOOD & COMPANY**  
P. O. Box 4206  
Mbabane H100

T277 09-03-2018

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**NOTICE**

**ESTATE LATE: MACOMANE BRUNO MAGONGO FILE NO. EL1/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

GAGAZA B. MAGONGO  
P. O. Box 838  
Siteki

T278 09-03-2018

**NOTICE**

IN THE HIGH COURT OF SWAZILAND

HOLDEN AT MBABANE ON THE 19<sup>th</sup> DAY OF FEBRUARY, 2018 BEFORE THE  
HONOURABLE JUSTICE M. DLAMINI.

CIV. T. No. 203/2018

In the matter between:

REHOBOTH (PTY) LIMITED t/a  
LA CASSEROLE RESTAURANT

Petitioner

AND IN THE MATTER OF a  
Petition for the Voluntary  
Winding up of the Petitioner in  
terms of the Companies Act of  
Swaziland Act 8/2009

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**COURT ORDER**

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**WHEREUPON:** Having heard counsel for the Petitioner;

**IT IS HEREBY ORDERS AS FOLLOWS:**

1. That Your Petitioner dispense with non-compliance of the Rules of Court and particular those relating to time periods be condoned and the Applicant be heard as one of urgency;
2. That Your Petitioner be provisionally wound up in the hands of The Master of the High Court of Swaziland and that the rule can be issued calling upon all interested parties to show cause, on a date to be determined by the High Court why the Orders should not be made final;
3. That **Sabelo Masuku**, an Attorney of the High Court practising under the firm Howe Masuku Nsibandwe Attorneys, be appointed as a Provisional Liquidator of the Company;
4. That the Order be published in one publication of the Times of Swaziland or the Swazi Observer and on publication in the Swaziland Government Gazette;
5. That the costs of this Petition form part of the costs of the liquidation;
6. That the Order granted is returnable on the 2<sup>nd</sup> day of March, 2018.

**BY ORDER OF THE COURT**

**GIVEN UNDER MY HAND AT MBABANE ON THIS THE 21<sup>st</sup> DAY OF FEBRUARY, 2018.**

**REGISTRAR OF THE HIGH COURT**  
*MBABANE*

**NOTICE**

**ESTATE LATE: DUMSILE SARAH NTSHALINTSHALI  
FILE NO. EM58/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902** that the **First and Final Liquidation and Distribution Account** will lie open for inspection at the office of the Master of the High Court of Swaziland, **Manzini branch behind the Post Office (Old DC)** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

SIBONGILE DLAMINI  
P. O. Box A500  
Swazi Plaza

T276 09-03-2018

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**NOTICE**

**ESTATE LATE: AMOS MDUMSENI SKHOSANA FILE NO. EL11/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

BONGSIWE SIKHOSANA &  
VEZUMUSA SIKHOSANA  
P. O. Box 172  
Siphofaneni

T279 09-03-2018

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**NOTICE**

**ESTATE LATE: SAMARIA ZODWA DLUDLU / LUSHABA  
FILE NO. EH243/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

ZAMEKILE DLUDLU  
P. O. Box 5579  
Mbabane  
7603 1313

T281 09-03-2018

**NOTICE**

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 693/2017

In the matter between:

FIRST NATIONAL BANK SWAZILAND LIMITED

Plaintiff

And

TITUS SIBUSISO DLAMINI

Defendant

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**NOTICE OF SALE**

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**NOTICE** is hereby given that pursuant to a **Writ of Execution** issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff for the District of Hhohho, outside the High Court of Swaziland Building, **Mbabane**, at **1030 hours** on **FRIDAY** the **6<sup>th</sup>** day of **APRIL 2018**.

CERTAIN : Portion 6 of Farm No. 1212, situate in the Hhohho District of Swaziland;

MEASURING : **95, 5409** (Nine Five Comma Five Four Zero Nine) square metres;

HELD : Under Deed of Transfer No. 434/2012 dated 16<sup>th</sup> May 2012;

RESERVE PRICE : **E1 250 000.00** (One Million Two Hundred and Fifty Thousand Emalangeni);

Conditions of Sale are available for inspection at the office of the Sheriff in the High Court Building in Mbabane.

Further particulars may be obtained from the undersigned.

**DATED AT MBABANE ON THIS THE ..... DAY OF MARCH, 2018.**

**SIPHIWO MABILA**  
C/O The Registrar of the High Court  
*MBABANE*

T274 09-03-2018

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**NOTICE**

**ESTATE LATE: NOMCEBO GRACE MASUKU FILE NO. EH246/2017**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

NKWANYANA PHILILE ANGEL  
P. O. Box 3057  
Mbabane

T280 09-03-2018

**NOTICE**

**ESTATE LATE: ISAIAH MFANUFIKILE MNISI FILE NO. EH201/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

SARAH CEDZANI MNISI  
P. O. Box 2708  
Mbabane

T282 09-03-2018

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**NOTICE**

**ESTATE LATE: JOTHAM M NIKENI NKUMBA FILE NO. EM19/2018**

Debtors and Creditors in the above-mentioned estate are hereby required to lodge their claims and pay their debts to the undersigned within **thirty (30) days** from date of publication of this notice.

MARY TSABILE NKUMBA  
P. O. Box 3  
Sidvokodvo

T283 09-03-2018

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**NOTICE**

**ESTATE LATE: PHAZAMISA DLAMINI FILE NO. EM165/2017**

Notice is hereby given in terms of **Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account** will lie open for inspection at the office of the Master of the High Court of Swaziland, **Manzini branch behind the Post Office (Old DC)** 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 or her objection in writing with the Executor and with the Master of the High Court of Swaziland at **any time before the expiry of the said period.**

DUMAZILE ZWANE  
P. O. Box 76  
Siphofaneni

T285 09-03-2018



**SUPPLEMENT TO**

**THE**

**SWAZILAND GOVERNMENT**

**GAZETTE**

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VOL. LVI]

MBABANE, Friday, MARCH 9<sup>th</sup>, 2018

[No. 29A

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## THE SPECIAL ECONOMIC ZONES ACT, 2018

(Act No. 3 of 2018)

**I ASSENT****MSWATI III**  
King of Swaziland22<sup>nd</sup> February, 2018

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**AN ACT**  
**ENTITLED**

**AN ACT** to provide for the establishment of special economic zones; Special Economic Zones Committee; Special Economic Zones Tribunal and incidental matters.

**ENACTED** by the King and Parliament of Swaziland.

**ARRANGEMENT OF SECTIONS****PART I**  
**PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Application of Act
4. Purpose of special economic zones

**PART II**  
**SPECIAL ECONOMIC ZONES COMMITTEE**

5. Establishment of the Special Economic Zones Committee
6. Composition the Committee
7. Functions the Committee
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11. Declaration of special economic zones
12. Criteria for designating special economic zones
13. Enclosure of special economic zones

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14. Qualifications of a special economic zone developer
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21. Guidelines
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23. Tribunal
24. Review by the High Court
25. Transitional provisions and savings
26. General Penalty
27. Amendment of schedules

Schedules

**PART I**  
**PRELIMINARY**

***Short title and commencement***

1. (1) This Act may be cited as the Special Economic Zones Act, 2018.

(2) This Act shall come into force on a date to be appointed by the Minister by notice in the gazette.

***Interpretation***

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

“agricultural zone” means a special economic zone declared as such under section 11 to facilitate the agricultural sector, its services and associated activities;

“business service park” means a special economic zone declared as such under section 11 to facilitate the provision of services including but not limited to business processing outsourcing centres, call centres, shared service centres, management consulting and advisory services and other associated services;

“company” means a company registered in terms of the law regulating Companies, which carries on business or has an office or place of business in Swaziland;

“Committee” means the Special Economic Zones Committee established under section 5;

“developer” means a holder of a special economic zone developer licence issued in terms of section 17;

“duty” means the fiscal, customs or excise duty leviable under any Act;

“enforcement officer” means a customs and excise officer, an officer of the Ministry responsible for Finance or of the Ministry responsible for Commerce and Industry, designated in writing by their respective Minister as an enforcement officer for purposes of this Act;

“export” has the same meaning ascribed to it in the law regulating Customs and Excise;

“export product” means a product or produce in respect of which a declaration has been made;

“import” has the same meaning ascribed to it in the law regulating Customs and Excise;

“Freeport zone” means a designated area placed at the disposal of the special economic zone or Freeport authority where goods introduced into the designated area are generally regarded, in so far as import duties are concerned, as being outside the customs territory;

“free trade zone” means a special economic zone customs controlled area where goods are off-loaded for transshipment and storage and may include bulk breaking, repackaging, sorting, mixing, trading or other forms of handling excluding manufacturing and processing;

“industrial park” means a special economic zone declared as such under section 11 With integrated infrastructure to facilitate the needs of manufacturing and processing industries;

“information communication technology park” means a special economic zone declared as such under section 11 to facilitate the information communication technology sector, its services and associated activities;

“livestock zone” means a special economic zone declared as such under section 11, in which the following activities are carried out -

- (a) livestock marshalling and inspection;
- (b) livestock feeding or fattening;
- (c) abattoir and refrigeration;
- (d) deboning;
- (e) value addition;
- (f) manufacture of veterinary products; and
- (g) other related activities.

“Minister” means the Minister responsible for commerce, industry and trade;

“production day” means the day on which an export enterprise commences, or is deemed to have commenced, its operations;

“licensee” means the holder of a special economic zone licence issued in terms of section 17;

“operator” means the holder of a special economic zone operator licence issued in terms of section 17;

“public-private partnership” means a contractual agreement between Government or public enterprises or other Government entities and the private sector whereby the private sector provides services or facilities in sectors and services traditionally provided by the public sector;

“science and technology park” means a special economic zone declared as such under section 11 to facilitate the science and technology sector, its services and its associated activities;

“Special Economic Zone” means a designated geographical area or building declared under section 11 of this Act to be a special economic zone where integrated land uses and sector-appropriate on-site and off-site infrastructure and utilities are provided, or which has the potential to be developed, whether on a public, private or public-private partnership basis, where any goods introduced and specified services are regarded, in so far as import duties and taxes are concerned, as being outside the customs territory and wherein the benefits provided under this Act apply;

“value adding or value added” includes the enhancement of, packaging or re-packaging of and beneficiation added to a product before the product is offered to the end-user.

### ***Application of Act***

3. This Act applies to special economic zones declared in terms of this Act.

***Purpose of special economic zones***

4. (1) A special economic zone shall be used for the purpose of economic development by attracting foreign and domestic investments and ensuring the transfer of technology and for the purpose of exporting products produced in the special economic zone.

(2) A special economic zone shall -

- (a) facilitate the creation of an industrial complex, having strategic national economic advantage for targeted investments and industries in the manufacturing sector and tradable services;
- (b) develop infrastructure required to support the development of targeted industrial activities; and
- (c) provide the location for the establishment of targeted investments.

(3) For the purpose of this section, “targeted investments” includes investments in support of national economic and industrial development policies.

**PART II**  
SPECIAL ECONOMIC ZONES COMMITTEE

***Establishment of the Special Economic Zones Committee***

5. (1) There is established a Committee to be known as the Special Economic Zones Committee.

(2) The Committee shall be appointed by the Minister, after consultation with Cabinet, and shall be composed of not more than nine (9) members.

(3) The Committee shall hold office for a period not exceeding three (3) years.

(4) The Committee may co-opt any person who may have any technical knowledge on any matter which the Committee is seized with.

(5) A co-opted member shall not have any voting rights.

***Composition of the Committee***

6. (1) The Committee shall be composed of-

- (a) a representative from the Ministry responsible for Commerce, Industry and trade;
- (b) a representative from the Ministry responsible for Finance;
- (c) a representative from the Ministry responsible for Economic Planning;
- (d) a representative from the Ministry responsible for Information Communications and Technology;
- (e) a representative from the Ministry responsible for Labour and Social Security;

- (f) a representative from the Ministry responsible for Agriculture;
- (g) a representative from the Ministry responsible for Housing and Urban Development;  
and
- (h) a representative from the Swaziland Revenue Authority.

(2) The Chairperson of the Committee, who shall be a public officer, shall be appointed by the Minister.

(3) The Committee members appointed under this section shall be persons who are qualified in at least one of the following professions;

- (a) accounting,
- (b) economics,
- (c) law,
- (d) business administration, or
- (e) any other business or investment related field.

***Functions of the Committee***

7. (1) The Committee shall-

- (a) advise the Minister on the special economic zones policy and strategy in order to promote, develop, operate and manage the special economic zones;
- (b) monitor the implementation of the special economic zones policy and strategy and report to the Minister on an annual basis on the implementation of the special economic zones policy and strategy;
- (c) consider an application for declaration or designation of a special economic zone and recommend to the Minister whether or not to approve the application and grant a special economic zone licence to the applicant;
- (d) consider an application for a developer permit and recommend to the Minister whether or not to approve that application;
- (e) consider an application for the transfer of an operator permit and recommend to the Minister whether or not to approve that application with or without any condition;
- (f) maintain current data on the performance of the programme in each individual special economic zone and enterprise;
- (g) report in the prescribed manner to the Minister on progress relating to the development of special economic zones; and
- (h) advise the Minister on minimum norms and standards required for the provision of a one-stop shop in a special economic zone;

(2) The Committee may -

- (a) conduct investigations on any matter arising out of the application of this Act; and
- (b) perform such other functions consistent with the objectives of the Act as the Minister may determine.

(3) The Committee shall be responsible for the monitoring and enforcement of all rules within a special economic zone.

#### ***Secretariat of the Committee***

8. (1) The Minister shall designate a department under the Ministry responsible for Commerce, Industry and Trade to act as the secretariat of the Committee.

(2) The Minister shall ensure that the Committee has the necessary resources to execute their functions.

#### ***Implementation Agreement***

9. (1) The Committee may, after consultation with the Minister, enter into an implementation agreement with any organ of state that the Minister may deem appropriate, including -

- (a) the Ministry responsible for Environmental Affairs;
- (b) the Ministry responsible for Home Affairs;
- (c) the Ministry responsible for Labour and Social Security; or
- (d) the Ministry responsible for Finance.

(2) The implementation agreement may deal with -

- (a) implementation and operation of a one-stop shop; or
- (b) any other matter requiring the co-ordination of the functions of organs of state that may be appropriate or required for the proper regulation and development of special economic zones.

#### ***Protection from personal liability***

10. (1) The Committee shall not be personally liable for an act which was done or purported to be done in good faith on the direction of the Minister in the performance or intended performance of any duty or in the exercise of any power under this Act.

(2) The provisions of this section shall not relieve the Committee from any delictual or contractual liability, to pay compensation or damages to a person for an injury to that person, that person's property or any of that person's interests caused by the exercise of any power conferred by this Act or any other written law.

**PART III**  
DECLARATION AND DESIGNATION OF SPECIAL ECONOMIC ZONES

*Declaration of special economic zones*

11. (1) The sites or areas listed in the Third schedule are for purposes of this Act declared as special economic zones.

(2) The Committee shall after consideration of an application forward the application to the Minister for a decision.

(3) The Minister shall after the approval of Cabinet-

- (a) determine the extent of the area to be declared as a special economic zone; and
- (b) declare that area as a special economic by notice in the Gazette.

(4) The declaration of a special economic zone under subsection (1) shall-

- (a) define the limits of the zone; and
- (b) remain in force until revoked by the Minister by notice in the Gazette, on the recommendation of the Committee.

(5) Where upon receipt of a recommendation under subsection (2), the Minister considers that the declaration of a special economic zone would infringe upon public interest, the Minister may refer the recommendation back to the Committee to ensure the protection of that public interest.

(6) Any public land declared as a special economic zone shall not be alienated for private use except to special economic zone developers, operators or enterprises or other bodies established within a special economic zone.

(7) An area which is declared as a special economic zone under this section may be designated as a single sector or multiple sector special economic zone, and may include, but not limited to-

- (a) free trade zones;
- (b) industrial parks;
- (c) free ports;
- (d) information communication technology parks;
- (e) science and technology parks;
- (f) agricultural zones;
- (g) tourist and recreational zones;
- (h) business service parks; or

(i) livestock zones.

(8) The Minister shall not publish a notice under subsection (3) (a) without first publishing a notification in the Gazette and a newspaper circulating in the area concerned advising the public of the details of the notice the Minister intends to publish and the reasons for publishing that notice and inviting any person to submit any representations which that person wishes to make to the Minister by a time to be specified in such notification.

***Criteria for designating special economic zones***

12. The Committee shall, in designating a special economic zone, consider project proposals that qualify for licensing and take into account the following -

- (a) nature of the proposed project;
- (b) intended size and perimeter of the proposed special economic zone;
- (c) availability of land and unencumbered land titles;
- (d) geographical location and topography;
- (e) proximity to resources, population centres and infrastructure;
- (f) infrastructure and public utility requirements including water, power, sewage, telecommunications, solid and water waste management;
- (g) provision of medical, recreational, security, fire safety, customs, and administrative facilities;
- (h) impact on off-site infrastructure, utilities and services;
- (i) approval of land uses and zoning requirements to facilitate the special economic zones; environmental standards and requirements; and
- (k) any other criteria as may be prescribed in the regulations.

***Enclosure of special economic zones***

13. A special economic zone developer shall take necessary measures

- (a) to ensure that the special economic zone allocated to that developer is properly enclosed and the enclosure is properly maintained and guarded; and
- (b) to determine the appropriate entry and exit points in a special economic zone to the satisfaction of the Minister.

**PART IV**

**SPECIAL ECONOMIC ZONE DEVELOPER AND OPERATOR**

***Qualifications of a special economic zone developer***

14. A special economic zone developer shall, in addition to such other criteria and requirements as may be prescribed -

- (a) be a company registered in Swaziland, for the purpose of undertaking special economic zone activities;
- (b) have the financial capacity, technical and managerial expertise, and associated track record of relevant development or operational projects, required for developing or operating the special economic zone; and
- (c) be an owner or lessee of land or premises within the special economic zone.

***Requirements for operating a special economic zone***

15. (1) The benefits prescribed under Part V of this Act shall not accrue to any operator of a special economic zone unless the operator holds a valid licence issued by the Minister.

(2) The Minister shall grant a licence if the application meets the objectives of this Act, and if the proposed business enterprise -

- (a) is incorporated in Swaziland whether or not it is one hundred (100%) per cent foreign owned;
- (b) proposes to engage in any activity or activities eligible to be undertaken by a special economic zone enterprise in the special economic zone;
- (c) does not have a negative impact on the environment or engage in activities impinging on national security or presenting a health hazard; and
- (d) conducts business in accordance with the laws for the time being in force save for any exemptions under this Act.

**PART IV  
LICENSING**

***Special economic zone licence***

17. (1) A person shall not -

- (a) carry on business as a special economic zone developer or operator;
- (b) hold oneself out as providing or maintaining activities or facilities within a special economic zone,

except under and in accordance with a licence issued under this Act.

(2) A person who, intends to carry on business as a special economic zone developer or operator shall apply in the prescribed form to the Committee for an appropriate licence or for renewal of the licence.

(3) On receiving an application for a licence or for renewal of a licence, the Minister, may after the approval of Cabinet and upon payment of the prescribed fee, issue the appropriate licence or renew a licence.

(4) In evaluating an application by a special economic zone developer or operator, the Committee shall assess the specific engineering and financial plans, financial viability, and environmental and social impact of the applicant's proposed special economic zone project, as appropriate.

(5) The Minister shall expeditiously make its decisions on licensing under this Act within One (1) month from the date on which the duly completed application form together with relevant supporting documents, is submitted.

(6) A licence issued under this section shall-

- (a) be in the prescribed form;
- (b) authorize the licensee to carry on business as a special economic zone developer, or operator;
- (c) be specific with regards to the activity to be carried out under the licence;
- (d) be valid for such period as the Minister may prescribe; and
- (e) contain conditions which are deemed necessary.

(7) The Committee shall, give notice to the Swaziland Revenue Authority of every special economic zone, developer or operator licensed under this Act specifying -

- (a) the activities in respect of which the enterprise is licensed; and
- (b) any conditions attached to the licence.

(8) A licence issued under this section may -

- (a) be amended by the Minister at any time by giving written notice to the holder, if in the opinion of the Minister, the amendment is necessary; or
- (b) be suspended or revoked by the Minister if the holder fails to comply with the conditions contained in the licence, this Act or regulations made thereunder this Act.

(9) Where a licence is suspended or revoked, the holder shall take such steps as may be recommended by the Minister.

#### ***Payment of fees***

18. Where an application or renewal for a special economic zone licence is approved, the applicant shall pay the annual fee as prescribed by the Minister.

#### ***Facilities within a special economic zone***

19. Taking into account the general intent of the special economic zone developer licence, the developer shall provide and maintain in a special economic zone such facilities including adequate enclosure to separate a special economic zone from the common customs territory, as it maybe necessary for the proper and efficient functioning of the special economic zone.

**PART V**  
RIGHTS AND OBLIGATIONS OF  
SPECIAL ECONOMIC ZONE OPERATORS

*Rights of special economic zones operators*

20. (1) The Minister shall not issue an order for cessation of any activities or removal of any goods without first giving the concerned enterprise an opportunity of being heard.

(2) The relevant enforcement officer in each special economic zone shall offer on-site inspection to the special economic zone for imports into, and exports out of, the special economic zone.

(3) A licensed special economic zone enterprise shall enjoy-

- (a) the full protection of its property rights against all risks of nationalization or expropriation;
- (b) the right to fully repatriate all capital and profits, without any foreign exchange impediments;
- (c) the right of protection of industrial and intellectual property rights, in particular patents, copyrights, business names, industrial designs, technical processes and trademarks;
- (d) the right to admit into the special economic zone for which it is licensed, to export and sell in the customs territory, all classes or kinds of goods and services in accordance with the customs laws,
- (e) the right to transact and carry on business with a non-special economic zones enterprise;
- (f) the right to contract with any other enterprise, to buy, sell, lease, sub-let or otherwise exercise, manage, or transfer land or buildings within a special economic zone, subject to the property rights of that enterprise;
- (g) the right to contract with any other enterprise, to buy, sell, lease, sub-let or otherwise exercise, manage or transfer land or buildings within a special economic zone subject to the relevant law;
- (h) the right to determine the prices of any of its goods or services sold inside or outside the special economic zone for which it is licensed;
- (i) the benefits in the national context of an open, free, competitive investment environment including the right to freely engage with the special economic zone for which it is licensed in any business, trade, manufacturing or service activity not prohibited by this Act;
- (j) the investment incentives listed in the first schedule; and
- (k) all other rights and benefits granted to licensed special economic zones enterprises under this Act.

***Obligations of special economic zones operators***

21. A licensed special economic zone enterprise, where applicable, shall, -
- (a) enable the beneficiation of mineral and natural resources;
  - (b) utilize local existing industrial and technological skill, promoting integration with local industry and increasing value-added production;
  - (c) create employment and other economic and social benefits in the region in which it is located, including the broadening of economic participation by skills and technology transfer;
  - (d) generate new and innovative economic activities; and
  - (e) adhere to the obligations listed in the second schedule.

**PART VI**  
**GENERAL PROVISIONS**

***Guidelines***

22. (1) The Minister may, in consultation with the Committee, issue guidelines regarding any matter in respect of which the Minister deems necessary or expedient in order to achieve the objects or purpose of this Act.

- (2) The guidelines -
- (a) shall not be inconsistent with the provisions of this Act; and
  - (b) shall be published by notice in the Gazette.

***Regulations***

23. The Minister may, in consultation with the Committee, make regulations regarding-

- (a) any matter which in terms of this Act is required or permitted to be prescribed;
- (b) criteria for the designation and declaration of all special economic zones;
- (c) the application process, criteria, terms, conditions, and procedures for designation of special economic zones and licensing of special economic zone developers, operators and enterprises;
- (d) the form of licences to be issued under this Act and the procedures for amendment and revocation of the licences; ,
- (e) the general conditions of entry of persons into a special economic zone;
- (f) information required from special economic zone developers, operators and enterprises;

- (g) the rules pertaining to the establishment, functioning, operation and procedures for the special economic zones one-stop shops;
- (h) the investment rules for special economic zones;
- (i) the land use rules for special economic zones, development and building controls as well as utility provisions and operations;
- (j) the fees to be levied under this Act; and
- (k) any ancillary or incidental administrative or procedural matter that is necessary to prescribe for the proper implementation or administration of this Act;

***Tribunal***

24. (1) The Minister shall establish a tribunal.

(2) The tribunal shall be composed of three (3) members.

(3) One member shall be an admitted attorney who shall be the chairperson, one representing the business sector and one appointed based on their knowledge of special economic zones.

(4) The tribunal shall hear matters decided by the Minister on appeal.

(5) A person aggrieved by the decision of the Minister may lodge an appeal with the Tribunal within twenty one (21) days of that decision.

(6) The decision of the tribunal shall be final and binding on all the parties until set aside by the High Court on review.

(7) The Minister shall appoint a secretary for the Tribunal.

(8) The Tribunal shall be paid such allowances as determined by the Minister after consultation with the Minister for Finance.

***Review by the High Court***

25. A person aggrieved by the decision of the tribunal may apply for review at the High Court within thirty (30) days of that decision.

***Transitional provisions and savings***

26. (1) A corporate body shall be deemed to be a special economic zone developer on the commencement of this Act if it has -

- (a) been approved by the Minister to engage in the development or management of integrated infrastructure facilities on public, private or public-private partnership basis; and
- (b) undertaken significant steps to commence development or management of the integrated infrastructure facilities.

(2) A corporate body or company which undertakes the business of a special economic zone which does not meet the requirements prescribed under this Act, shall within one (1) month of coming into force of this Act apply to the Minister to be declared or designated as a special economic zone.

***General Penalty***

26. A person who contravenes this Act commits an offence and shall, on conviction be liable to a penalty to be determined by the Court.

***Amendment of Schedules***

27. The Minister may, after approval of Cabinet, by notice in the Gazette, amend the schedules to this Act for the better carrying out of the purposes and provisions of this Act.

---

**FIRST SCHEDULE**

(Under Section 20)

**INVESTMENT INCENTIVES**

***Investment incentives***

1. An Investor in the special economic zone shall be entitled to the following incentives -
  - (a) exemption from the payment of corporate tax for an initial period of twenty years and thereafter a corporate tax shall be charged at the rate of five percent;
  - (b) remission of customs duty, value added tax and any other tax payable in respect of goods purchased for use as raw material, equipment, machinery including all goods and services directly related to manufacturing in the special economic zones;
  - (c) exemption from foreign exchange control or restriction on operations carried on in a special economic zone;
  - (d) be entitled to unrestricted repatriation of profits;
  - (e) be entitled to green technology allowance;
  - (f) be entitled to claim an allowance on constructed buildings;
  - (g) exemption from training levy, for an investor who has trained local employees; and
  - (h) be entitled to an allowance for research and development.

***Offloading into the customs territory***

2. (1) An investor shall be allowed to sell up to twenty percent (20%) of total production of goods produced in the special economic zone into the customs territory.

(2) The Minister may, depending on the nature of the industry or goods and market circumstance, authorize an investor to sell in the customs territory the amount exceeding that prescribed under sub section (1).

(3) All goods offloaded for sale into the customs territory shall be liable to all applicable duties and taxes.

---

**SECOND SCHEDULE**

(Under Section 21)

***Requirements of an investor who intends to locate in a special economic zone***

An investor intending to settle in a special economic zone shall -

- (a) ensure decent employment for employees;
- (b) ensure that ninety percent (90%) of the employees are within the taxable bracket;
- (c) ensure that the minimum employment quota of Swazi citizens is two thirds (2/3);
- (d) the minimum capital investment is not less than thirty million Emalangeni (E30 000 000.00) for sole companies and not less than seventy million Emalangeni (E70 000 000. 00) for joint ventures;
- (e) ensure that the localization policy is adhered to; and
- (f) ensure skills transfer.

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**THIRD SCHEDULE**

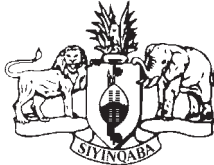
(Under Section 11)

***Areas or sites declared or designated as Special Economic Zones***

1. The following sites are declared and designated as Special Economic Zones -
  - (a) Royal Science and technology Park; and
  - (b) King Mswati III international airport.
2. The Minister shall determine the extent of the land to be declared as a Special Economic Zone.

THE COPYRIGHT AND NEIGHBOURING RIGHTS ACT, 2018

(Act No. 4 of 2018)



**I ASSENT**

**MSWATI III**  
King of Swaziland

....., 2018

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**AN ACT**  
**ENTITLED**

**AN ACT** to repeal and replace the Copyright Act, 1912 and to provide for incidental matters.

**ENACTED** by the King and the Parliament of Swaziland

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**PART I**  
PRELIMINARY

***Citation and Commencement***

1. (1) This Act may be cited as the Copyright and Neighbouring Rights Act, 2018.

(2) This Act shall come into operation on a date to be appointed by the Minister by Notice in the Gazette.

***Interpretation***

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

“architectural work” means a building or a model of or for a building”

“artistic work” means-

- (a) a graphic work, photograph, sculpture or collage, irrespective of its artistic quality; or
- (b) an architectural work; or
- (c) a work of artistic craftsmanship which is not described in paragraph (a) or (b);

“association” mean a legally recognized body in Swaziland representing artists and authors;

“audiovisual work” means a recording or fixation on any medium from which a moving image, together with any sounds associated with the image, may be produced by any means, but does not include a computer program or broadcast;

“author” in relation to a work, means the individual who first makes or creates the work;

“broadcast” means the communication of a work or performance to the public by means of a radio communication service, including its transmission by satellite;

“copy”, in relation to-

- (a) a literary or musical work, includes a copy in the form of a record or an audio visual work;
- (b) an artistic work, includes a version produced by converting the work into a three dimensional form or, if it is already in three dimensions, by converting it into a two-dimensional form;
- (c) an audio-visual work or a broadcast, includes a still photograph made from the audio visual work or broadcast;
- (d) an architectural work, does not include anything that is not a building or a model of or for a building;
- (e) any work, includes-
  - (i) a copy held in electronic form; and
  - (ii) a copy made from a copy of the work;

“Copyright Administrator” means a person holding the office of Copyright Administrator in terms of section 71;

“computer programme” means a set of instructions which is fixed or stored in a manner and which, when used directly or indirectly in a computer, directs its operation to perform a task or bring about a result;

“designated country” in relation to any provision of this Act, means a country that has been designated for the purposes of that provision in regulations made in terms of section 105;

“distribution”, in relation to a programme carrying signal, means any operation by which such a signal is transmitted to the public or any section of the public;

“dramatic work” includes a work of dance or mime if reduced to the material form in which the work or entertainment is to be presented, but does not include an audio visual work;

“drawing” includes any drawing of a technical nature and any diagram, map chart or plan;

“economic right” in relation to a work in which copyright subsists, means a right referred to in Part III;

“expression of folklore” means a group oriented and tradition based creation of groups or individuals reflecting the expectation of the community as an adequate expression of its cultural and social identity, its standards and values as transmitted orally, by imitation or by other means, including –

- (a) folktales, folk poetry and folk riddles;
- (b) folk songs and instrumental folk music;

(c) folk dances and folk plays; and

(d) production of folk arts, in particular, drawings, paintings, sculptures, pottery, terra cotta, mosaic, woodwork, metal work, jewellery, handicrafts, costumes and indigenous textiles;

“fixation”, in relation to sounds, means the embodiment of the sounds or representations of such sounds in such a way that they can be heard, reproduced or communicated through a machine or device;

“literary work” includes any work which is written, spoken or sung, irrespective of its literary quality or the mode or form in which it is expressed, and includes-

(a) dramatic works, stage directions, film scenarios and broadcasting scripts; and

(b) letters, reports, maps, sketches and memoranda; and

(c) lectures, speeches and sermons; and

(d) computer programmes; and

(e) tables and compilations;

but does not include musical works;

“Minister” means the Minister responsible for Commerce, Industry and Trade or any other Minister to whom the King may, from time to time, assign the administration of this Act;

“moral rights” means the rights referred to in Part VI;

“musical work” means a work consisting of music, but does not include any words or action intended to be sung, spoken or performed with the music;

“owner” in relation to any copyright, means the person to whom the copyright is vested and includes an assignee in relation to the rights held by him under the assignment;

“public performance” means public representation of a work or expression of folklore, by live action or by any technical means to listeners or spectators in their presence;

“performers” means actors, singers, musicians, dancers and other persons who act, sing, deliver, declaim, play in or otherwise perform literary or artistic works including expressions of folklore, and variety and circus artistes as well as puppeteers;

“producer of a sound recording” means the person, or the legal entity, who or which takes the initiative and has the responsibility for the first fixation of the sounds of a performance or other sounds, or the representatives of sounds;

“programme” includes any item of information included in a programme that is broadcast or transmitted by a cable programme service or embodied in a programme carrying signal;

“published” means a work or sound recording-

- (a) copies of which has been made available to the public in a reasonable quantity for sale, rental, public lending or for other transfer of the ownership or the possession of the copies;
- (b) which has been made available to the public by means of an electronic retrieval system provided that, in the case of a work, the making available to the public took place with the consent of the author or other owner of the copyright, and in the case of a sound recording, with the consent of the producer of the sound recording or his successor in title;

“rental” means the transfer of the possession of the original or a copy of a work or sound recording for a limited period of time for profit making purposes;

“rebroadcasting” means the simultaneous or deferred broadcasting and includes broadcasting by one broadcasting organisation of the broadcast or self contained part of the broadcast, of another broadcasting organisation;

“reproduce” means to make a copy of a work in any manner or form, and includes storing the work permanently or temporarily in electronic form;

“rights management information” is any information which identifies the author, the work, the performer, the performance of the performer, the producer of the sound recording, the sound recording, the broadcaster, the broadcast, the owner of any right under this Act, or information about the terms and conditions of use of the work, the performance, the sound recording or the broadcast, and any numbers or codes that represent such information, when any of the these items of information is attached to a copy of a work, a fixed performance, a sound recording or a fixed broadcast, or appears in connection with the broadcasting, communication to the public or making available to the public of a work, a fixed performance, a sound recording or a broadcast;

“royalties” means the money paid by the society to the owners of the respective work;

“Society” means the Copyright and Neighbouring Rights Society of Swaziland established in terms of section 77;

“sound recording” means the fixation of the sounds of a performance or of other sounds or of a representation of sounds, other than in the form of a fixation incorporated in an audio visual work;

“Tribunal” means the Swaziland Intellectual Property Tribunal established by the Swaziland Intellectual Property Tribunal Act;

“work” means any literary, musical, artistic or audio-visual work, sound recording, broadcast, programme carrying signal or published edition;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors, but does not include a collective work;

“works first published in Swaziland” includes works first published abroad but thereafter published in Swaziland within 30 days;

**PART 11**  
COPYRIGHT IN ORIGINAL WORKS

***Works eligible for copyright***

3. (1) Subject to this Act, the following works, if they are original, shall be eligible for copyright-

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) audio-visual works;
- (e) sound recordings;
- (f) broadcasts;
- (g) programme carrying signals;
- (h) published editions.

(2) A work, other than a broadcast or programme carrying signal, shall not be eligible for copyright unless it has been reduced to writing, recorded or reduced to material form.

(3) A broadcast or a programme carrying signal shall not be eligible for copyright until-

- (a) in the case of a broadcast, it has been broadcast;
- (b) in the case of a programme carrying signal, it has been transmitted by satellite.

***Works ineligible for copyright***

4 (1) The following matters and things shall not be eligible for copyright-

- (a) ideas, procedures, systems, methods of operation, concepts, principles, discoveries, facts or figures, even if they are explained and embodied in a work;
- (b) news of the day that are mere items of press information;
- (c) speeches of a political nature;
- (d) speeches delivered in the course of legal proceedings:

Provided that the author of any speeches referred to in paragraphs (c) or (d) shall have the exclusive right to make a collection of them.

(2) The following public documents shall not be eligible for copyright-

- (a) official texts of enactments;

- (b) official texts of Bills prepared for presentation in Parliament;
- (c) official records of judicial proceedings and decisions;
- (d) notices, advertisements and other material published in the Gazette;
- (e) official texts of international conventions, treaties and agreements to which Swaziland is a party;
- (f) entries in, and documents that form part of, any register which is kept in terms of an enactment and is open to public inspection;
- (g) such other documents of a public nature as may be prescribed:

Provided that this subsection shall not be taken to limit the provisions of any other law which may prohibit or restrict the reproducing, publishing or altering of any such public document.

***Copyright by virtue of author's nationality, domicile or residence***

5. (1) A work that is eligible in terms of section 3 shall qualify for copyright protection if, at the material time, the work's author or, in the case of a work of joint authorship, any one of its authors, was-

- (a) a citizen of Swaziland or a designated country; or
- (b) domiciled or ordinarily resident in Swaziland or a designated country; or
- (c) in the case of a body corporate, incorporated under the law of Swaziland or a designated country.

(2) The material time in relation to-

- (a) an unpublished literary, musical or artistic work, is when the work or a substantial part of the work was first made;
- (b) a published literary, musical or artistic work, is when the work was first published, or if the author died before that time, immediately before this death;
- (c) a cable programme, is when the programme was included in the cable programme service;
- (d) an audio-visual work, a sound recording or a broadcast, is when it was first made;
- (e) a published edition, is when the edition was first published.

(3) The author of-

- (a) an architectural work that is erected in Swaziland; or
- (b) any other artistic work that is incorporated in a building in Swaziland;

shall be deemed, for the purposes of this section, to have been ordinarily resident in Swaziland when the work was made, no matter where he may actually have resided.

***Copyright in works by State or designated international organisations***

6. A work that is eligible in terms of section 3 shall qualify for copyright protection if it is made by or under the direction of the State or an international organisation designated as such by regulations made by the Minister.

***Ownership of copyright***

7. (1) Ownership of any copyright shall vest in the author of the work concerned or, in the case of a work of joint authorship, in the co-authors of the work.

(2) The ownership of any copyright in a collective work shall vest in the person at whose instance and under whose direction the work was created or made.

(3) Where a literary or artistic work is made-

- (a) by an author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship; and
- (b) for the purpose of publication in a newspaper, magazine or similar periodical;

The proprietor shall be the owner of the copyright in the work in so far as the copyright relates to publishing the work in any newspaper, magazine or similar periodical or to reproducing the work for the purpose of its being so published, but in all other respects the author shall be the owner of the copyright.

(4) Where a person commissions-

- (a) the taking of a photograph;
- (b) the painting or drawing of a portrait;
- (c) the making of an audio visual work;
- (d) the making of a sound recording; or
- (e) the making of a graphic work;

and pays or agree to pay for it in money or money's worth and the work is made in pursuance of that commission, that person shall, subject to subsection (2), be the owner of any copyright subsisting in the work.

(5) Where a work is made in the course of the author's employment by another person under a contract of employment or apprenticeship, that other person shall be the owner of any copyright subsisting in the work.

(6) Ownership of any copyright conferred by section 6 shall initially vest in the State or the international organisation concerned, and not in the author.

***Duration of Copyright***

8. (1) Subject to this section, the duration of copyright shall be, in the case of-

- (a) an audio-visual work, a collective work, a photograph or a computer programme, fifty years from the end of the year in which the work is made available to the public with the consent of the owner of the copyright or, failing such an event, fifty years from the end of the year in which the work was made;
  - (b) a sound recording, fifty years from the end of the year in which the recording is first published;
  - (c) a broadcast, fifty years from the end of the year in which the broadcast first takes place;
  - (d) a programme carrying signal, fifty years from the end of the year in which the signal is first emitted to a satellite;
  - (e) a published edition, fifty years from the end of the year in which the edition is first published;
  - (f) any other literary, musical or artistic work, the life of the author and fifty years from the end of the year in which the author dies.
- (2) The copyright conferred on the State or an international organisation by section 6 shall subsist-
- (a) in the case of an audio-visual work, a photograph, a computer programme, a sound recording, a broadcast, a programme-carrying signal or a published edition, for the period specified in respect of such work in subsection (1);
  - (b) in the case of any other literary, musical or artistic work, for fifty years from the end of the year in which the work was first published.

(3) The copyright in an anonymous or pseudonymous literary work, other than a work referred to in subsection (2), shall subsist for fifty years from the end of the year in which the work is made available to the public with the consent of the owner of the copyright or from the end of the year in which it is reasonable to presume that the author died, whichever period is the shorter:

Provided that, in the event of the identity of the author becoming known before the expiry of that period, the term of the copyright shall be calculated in accordance with subsection (1).

(4) In the case of a work of joint authorship, the references in paragraph (f) of subsection (1) and subsection (3) to the death of an author shall be taken to refer to the author who dies last, whether or not he is a qualified person in terms of subsection (1) of section five.

### **PART III** ECONOMIC RIGHTS

#### ***Acts restricted by copyright in literary and musical works***

9. Subject to this Act, copyright in a literary or musical work shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) reproducing the work;

- (b) publishing the work;
- (c) importing the work into Swaziland or exporting it from Swaziland, otherwise than for the personal and private use of the person importing or exporting it;
- (d) performing the work in public;
- (e) broadcasting the work;
- (f) causing the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast, including the work, and is operated by the original broadcaster;
- (h) except in the case of a computer programme, making an adaptation of the work;
- (g) in the case of a computer programme-
  - (i) publishing an adaptation of the programme;
  - (ii) by way of business, directly or indirectly selling or letting for hire a copy of the programme or offering or exposing a copy of the programme for sale or hire.

***Acts restricted by copyright in artistic works***

10. Subject to this Act, copyright in an artistic work shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) reproducing the work;
- (b) publishing the work;
- (c) importing the work into Swaziland or exporting it from Swaziland, otherwise than for the personal and private use of the person importing or exporting it;
- (d) including the work in an audio-visual work or a broadcast;
- (e) causing a programme which includes the work to be transmitted in a cable programme service, unless the service transmits a lawful broadcast, including the work, and is operated by the original broadcaster;
- (f) making an adaptation of the work.

***Acts restricted by copyright in audio visual works***

11. Subject to this Act, copyright in audio-visual work shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) reproducing the work, including making a still photograph from it;
- (b) causing the work, in so far as it consists of images, to be seen in public or, in so far as it consists of sounds, to be heard in public;

- (c) importing the work into Swaziland or exporting it from Swaziland, otherwise than for the personal and private use of the person importing or exporting it;
- (d) broadcasting the work;
- (e) making the work available on a public computer network;
- (f) causing the work to be transmitted in a cable programme service, unless the service transmits a lawful television broadcast, including the work, and is operated by the original broadcaster;
- (g) directly or indirectly selling or letting for hire or offering or exposing for sale or hire, by way of business, a copy of the work;
- (h) making an adaptation of the work.

***Acts restricted by copyright in sound recordings***

12. Subject to this Act, copyright in a sound recording shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) making, directly or indirectly, a record embodying the sound recording;
- (b) directly or indirectly selling or letting for hire or offering or exposing for sale or hire, by way of business, a copy of the sound recording;
- (c) importing the sound recording into Swaziland or exporting it from Swaziland, otherwise than for the personal and private use of the person importing or exporting it;
- (d) making the sound recording available on a public computer network;
- (e) causing the sound recording to be transmitted in a cable programme service, unless the service transmits a lawful broadcast, including the sound recording, and is operated by the original broadcaster;
- (f) making an adaptation of the sound recording.

***Acts restricted by copyright in broadcasts***

13. Subject to this Act, copyright in a broadcast shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) reproducing the broadcast directly or indirectly, including, in the case of a television broadcast, making a still photograph from it;
- (b) rebroadcasting the broadcast;
- (c) making the broadcast available on a public computer network;
- (d) causing the broadcast to be transmitted in a cable programme service, unless the service is operated by the original broadcaster.

***Acts restricted by copyright in programme carrying signals***

14. Subject to this Act, copyright in a programme-carrying signal shall vest in the owner the exclusive right to undertake or to authorise the direct or indirect distribution of the signal in Swaziland or from Swaziland.

***Acts restricted by copyright in published editions***

15. Subject to this Act, copyright in a published edition shall vest in the owner the exclusive right to do or to authorise the doing of any of the following acts in Swaziland-

- (a) reproducing the published edition;
- (b) importing the published edition into Swaziland or exporting it from Swaziland, otherwise than for the personal and private use of the person importing or exporting it;
- (c) making the published edition available on a public computer network.

**PART IV**

**PERMITTED ACTS IN RELATION TO COPYRIGHT WORKS**

***Fair dealing for purposes of research or private study***

16. (1) The copyright in a work shall not be infringed by any fair dealing for the purposes of research or private study by the person using the work.

(2) Reproducing a work shall not constitute fair dealing for the purposes of subsection (1) if the person who reproduces it knows or has reason to believe that it will result in copies of substantially the same material being provided to more than one person at substantially the same time.

***Educational use of copyright material***

17. (1) Subject to this section, the copyright in a work shall not be infringed by the use of the work by way of illustration in any publication, broadcast or record for teaching if—

- (a) the use is compatible with fair practice; and
- (b) the extent of the use is justified by the purpose; and
- (c) sufficient acknowledgement is given.

(2) The copyright in a work shall not be infringed by anything done for the purposes of an examination by way of setting questions, communicating the questions to the candidates or answering the questions.

(3) The inclusion of a short passage from a published literary work in a collection which-

- (a) is intended for use in educational establishments and is so described in its title and in any advertisement issued by or on behalf of the publisher; and
- (b) consists mainly of material in which no copyright subsists;

shall not infringe the copyright in the work if the work itself is not intended for use in such establishments and its inclusion is accompanied by a sufficient acknowledgement:

Provided that not more than two such excerpts from copyright works by the same author shall be included in such collections published by the same publisher in any period of five years.

(4) The performance of a dramatic or musical work before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the establishment's activities shall not be regarded as a public performance for the purposes of infringement of copyright if the performance is given-

- (a) by a teacher or pupil in the course of the establishment's activities; or
- (b) at the establishment by any person for the purposes of instruction:

Provided that a person shall not be regarded as directly connected with the establishment's activities for the purposes of this subsection simply because he is a parent of a pupil.

(5) The playing or showing of an audio-visual work, a sound recording, a broadcast or a cable programme before an audience consisting of teachers and pupils at an educational establishment and other persons directly connected with the establishment's activities shall not be regarded as a public performance of the work for the purposes of infringement of copyright if the work is played or shown for the purposes of instruction:

Provided that a person shall not be regarded as directly connected with the establishment's activities for the purposes of this subsection simply because he is a parent of a pupil.

(6) Copyright in a literary or musical work shall not be infringed by an educational establishment which, by reprographic copying, makes copies of passages from the work for the purposes of instruction:

Provided that-

- (i) the extent of such copying shall not exceed such limits as may be prescribed; and
- (ii) no such copying shall be authorised by this subsection if, or to the extent that, a licence or a licence scheme is available authorising the copying in question and the person making the copies knew or ought to have been aware of that fact.

(7) No act shall be regarded as permitted by this section if it conflicts with a normal exploitation of the work concerned or prejudices unreasonably the legitimate interests of the owner of copyright in the work.

***Copies made to replace or conserve library or archival copies of works***

18. (1) The copyright in a work in the permanent collection of a library or archive shall not be infringed by a librarian or archivist who makes a copy of the work-

- (a) in order to preserve or replace the work by placing the copy in the permanent collection in addition to or in place of it; or
- (b) in order to replace in the permanent collection of another library or archive an item which has been lost, destroyed or damaged:

Provided that this subsection shall not apply-

- (a) where it is reasonably practicable to purchase a copy of the work in question rather than reproducing it; or
- (b) in such other circumstances as may be prescribed.

(2) The copyright in an unpublished work in the permanent collection of a library or archive shall not be infringed by a librarian or archivist who makes and supplies a copy of the work, if-

- (a) the copy is supplied to a person who satisfies the librarian or archivist that he requires it for purposes of research or private study and will not use it for any other purpose; and
- (b) no person is supplied with more than one copy of the work; and
- (c) the owner of the copyright in the work has not expressly prohibited copying of the work.

***Use of anonymous or pseudonymous works***

19. The copyright in a work shall not be infringed by the doing of anything at a time when, or pursuant to arrangements made at a time when-

- (a) it is not possible by reasonable inquiry to ascertain the identity of the author or, in the case of a work of joint authorship, any of the authors; and
- (b) it is reasonable to assume-
  - (i) that the copyright has expired; or
  - (ii) that the author died fifty years or more before the beginning of the calendar year in which the act is done or arrangements are made, as the case may be.

***Use of work for Parliamentary or judicial proceedings or inquiries***

20. (1) The copyright in a work shall not be infringed by reproducing or using the work for the purposes of-

- (a) any Parliamentary or judicial proceedings or for the purposes of reporting any such proceedings; or
- (b) any inquiry conducted in terms of any enactment, or for the purposes of reporting the proceedings of any such inquiry.

(2) The issuing to the public of the report of any inquiry referred to in paragraph (b) of subsection (1) shall not infringe the copyright of any work that is reproduced in the report.

***Fair dealing for purposes of criticism, review or news reporting***

21. (1) The copyright in a work shall not be infringed by any fair dealing-

- (a) for the purposes of criticism or review of that work or of another work or of the performance of a work; or
- (b) subject to subsection (2), for the purposes of reporting current events:

Provided that-

- (i) sufficient acknowledgement of the work shall be given, except where the work is used for the reporting of current events by means of an audio-visual work, a sound recording, a broadcast or a programme carrying signal;
- (ii) the use of a photograph for the purposes of reporting current events shall not constitute fair dealing.

(2) Paragraph (b) of subsection (1) shall not apply so as to authorise the publication of any part of an audiovisual work, a record or a programme-carrying signal representing a sporting event.

***Publication of public speeches and articles of topical interest***

22. (1) The copyright in a lecture, address, speech or other similar work which is delivered in public shall not be infringed by the work being reproduced in the press or in a broadcast or cable programme, if the reproduction is for the purpose of information:

Provided that the author of any such lectures, addresses, speeches or other works shall have the exclusive right of making a collection of them.

(2) The copyright in an article published in a newspaper or periodical, or in a broadcast, on any current economic, political or religious topic shall not be infringed by the work being reproduced in the press or in a broadcast or cable programme, if the right of such reproduction has not been expressly reserved and sufficient acknowledgement is given.

(3) No act shall be regarded as permitted by this section if it conflicts with a normal exploitation of the work concerned or prejudices unreasonably the legitimate interests of the owner of the copyright in the work.

***Quotations from copyright works***

23. The copyright in a literary or musical work shall not be infringed by any quotation from the work, including any quotation from an article in a journal that summarizes the work, if—

- (a) the quotation is compatible with fair practice; and
- (b) the extent of the quotation does not exceed the extent justified by the purpose; and
- (c) sufficient acknowledgement is given.

***Public readings and recitations***

24. The copyright in a published literary work shall not be infringed by-

- (a) the reading or recitation in public by one person of a reasonable extract from the work, if it is accompanied by a sufficient acknowledgement; or

- (b) the broadcasting or inclusion in a cable programme service of a reading or recitation referred to in paragraph (a), if the broadcast or programme, as the case may be, consists mainly of material in relation to which it is not necessary to rely on this section.

***Reconstruction of architectural works***

25. The copyright in an architectural work or in the relevant architectural drawings shall not be infringed by the reconstruction of that work on the same site and in the same style as the original.

***Ephemeral recordings***

26. The copyright in a literary or musical work shall not be infringed by a broadcaster reproducing the work using his own facilities, where the resultant copy-

- (a) is intended exclusively for broadcasting with the consent of the owner of the copyright in the work; and
- (b) is destroyed within six months immediately following the making of the copy, or within such longer period as may be agreed with the owner of the copyright in the work:

Provided that, if any such copy is of an exceptional documentary nature, it may be preserved in the broadcaster's archives but, subject to this Act, may not be used for broadcasting or any other purpose without the consent of the owner of the copyright.

***Reproducing artistic work for purpose of advertising its sale***

27. The copyright in an artistic work shall not be infringed by copies which are made and issued to the public for the purpose of advertising the sale of the work:

Provided that if such a copy is subsequently sold, let for hire, exhibited in public, distributed or otherwise dealt with for any other purpose it shall be treated as an infringing copy for the purposes of that dealing and, if that dealing infringes copyright, for all subsequent purposes.

***Use of work for demonstration purposes***

28. The copyright in a literary or musical work shall not be infringed by the use of the work in a bona fide demonstration of a radio or television receiver or computer or any type of recording equipment or playback equipment to a client by a dealer in such equipment.

***Computer programs.***

29. (1) Subject to this section, a person who is in lawful possession of a computer program, or a copy of such a program, may do any of the following things without infringing copyright in the program.

- (a) make copies of the program to the extent reasonably necessary-
  - (i) for back-up purposes; or
  - (ii) to correct errors in it; or

- (iii) for the purposes of decompilation in terms of paragraph (b); or
  - (iv) for the purpose of testing the program to determine its suitability for the person's use; or
  - (v) for any other purpose that is not prohibited under any licence or agreement whereby the person is permitted to use the program;
- (b) decompile the program, that is to say, convert the program into a version expressed in a different programming language, code or notation, for the purpose of obtaining information needed to enable the program to operate with other programs;
- (c) let the program on hire together with a computer or other device, where the program itself is not the essential object of the lease.
- (2) Any copy made in terms of paragraph (a) of subsection (1) shall-
- (a) be used only for the purpose for which it was made; and
  - (b) be destroyed when the person's possession of the computer program in question, or of the copy of the program, ceases to be lawful.

***Recording of programmes and broadcasts for purposes of subsequent viewing or listening***

30. (1) The copyright in-

- (a) a broadcast or cable programme; or
- (b) any work contained in a broadcast or cable programme;

shall not be infringed by the broadcast or programme being recorded for the sole purpose of enabling it to be viewed or listened to at a more convenient time.

(2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not-

- (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or
- (b) be performed in public.

***Private recording of musical works and sound broadcasts***

31. (1) Subject to this section, the copyright in-

- (a) a sound recording or a musical work embodied in a sound recording; or
- (b) a sound broadcast or any work embodied in such a broadcast;

shall not be infringed by the sound recording, musical work or broadcast being recorded by a person for the private use of himself and members of his family.

(2) Any recording made in terms of subsection (1) shall be used only for the purpose for which it was made and, in particular, shall not-

- (a) be distributed, whether by way of business or otherwise, to any person outside the family of the person who made it; or
- (b) be performed in public.

***Acts done under statutory authority***

32. The copyright in a work shall not be infringed by the doing of anything that is specifically authorised by any enactment.

***Prescribed dealings in copyright works***

33. In addition to any other reproduction permitted in terms of this Act, the reproduction of a work shall be permitted in such manner and circumstances as may be prescribed by the Minister:

Provided that-

- (i) such prescription shall not permit any such reproduction to be in conflict with a normal exploitation of the work or unreasonably to prejudice the legitimate interests of the owner of the copyright;
- (ii) in making any regulations referred to in proviso (i), the Minister shall have regard to the obligations of Swaziland under any international convention, treaty or agreement.

**PART V**  
**TRANSMISSION AND ASSIGNMENT OF COPYRIGHT**  
**AND GRANT OF LICENCES**

***Ways in which copyright may be transmitted***

34. Subject to this Act, copyright may be transmitted as incorporeal movable property by assignment, testamentary disposition or operation of law.

***Assignment of copyright***

35. (1) Subject to this section, an owner of copyright in a work may assign his economic rights in the work to any other person.

(2) An assignment in terms of subsection (1) may be limited so as to apply-

- (a) to some only of the assignor's economic rights; or
- (b) to a part only of the term of the copyright; or
- (c) to a specified country or other geographical area;

and may be absolute or subject to conditions.

(3) No assignment in terms of subsection (1) shall have effect unless it is in writing and signed by or on behalf of the assignor.

(4) An assignment in terms of subsection (1) shall not be construed as extending to any rights that are not expressly referred to in the assignment.

(5) An assignment in terms of subsection (1) may be registered with the Copyright Office in terms of Part X.

***Testamentary disposition of copyright***

36. (1) A testamentary disposition of the economic rights vested in an owner of copyright may be limited so as to apply-

- (a) to some only of the testator's economic rights; or
- (b) to a part only of the term of the copyright; or
- (c) to a specified country or other geographical area;

and may be absolute or subject to conditions.

(2) Where under a testamentary disposition a person becomes entitled to an original document or other material thing recording or embodying a work which was not published before the testator's death, the disposition shall be construed, in the absence of a stipulation to the contrary, as including any copyright in the work which was vested in the deceased at the time of his death.

***Vesting of copyright by operation of law***

37. Upon the liquidation, insolvency or death of an owner of any copyright, the copyright shall vest in the owner's liquidator or the trustee or executor of the owner's estate, as the case may be.

***Licences***

38. (1) Subject to this section, an owner of copyright in a work may, by licence, authorise another person to exercise any of his economic rights in the work.

(2) A licence referred to in subsection (1) may be-

- (a) an exclusive licence, that is to say a licence authorising the licensee to the exclusion of all other persons, including the person granting the licence, to exercise the economic right that is the subject of the licence; or
- (b) a non-exclusive licence, that is to say, a licence that does not preclude the person granting the licence from granting a similar licence to some other person.

(3) An exclusive licence shall not have effect unless it is in writing and signed by or on behalf of the person granting the licence.

(4) A non-exclusive licence may be written or oral or inferred from conduct and, unless otherwise provided in the licence or in any contract by which the licence was granted, may be revoked at any time.

(5) A licence, whether exclusive or non-exclusive, may be registered.

(6) A licence granted by the owner of the copyright to which the licence relates shall be binding upon the owner's successors in title.

(7) Unless otherwise provided in the licence concerned or in any contract by which the licence was granted, a licensee may grant a sub-licence authorising another person to do anything which the licensee is permitted to do by the licence, and this section shall apply, mutatis mutandis, in respect of any such sub-licence as if it were a licence.

### ***Transmission of future copyright***

39. (1) An assignment, testamentary disposition or licence may be made or granted in respect of the copyright in a future work, or the copyright in an existing work in which copyright does not subsist but will come into being in the future, and the future copyright in any such work shall be transmissible as incorporeal movable property.

(2) If, when any future copyright referred to in subsection (1) comes into existence and the person who, if he were living, would be entitled to the copyright is dead, the copyright shall devolve as if it had subsisted immediately before his death and he had then been the owner of the copyright.

(3) The provisions of this Act relating to the transmission of copyright shall apply, mutatis mutandis, to the transmission of future copyright referred to in subsection (1).

## **PART VI INFRINGEMENT AND REMEDIES FOR INFRINGEMENT**

### ***Infringement***

40. (1) Copyright is infringed by any person who is not the owner of the copyright and who, without the owner's authority, does or causes any other person to do an act in Swaziland which the owner has the exclusive right to do or to authorise.

(2) Without derogation from subsection (1), the copyright in a work is infringed by any person who, without the authority of the owner of the copyright, does any of the following things in Swaziland-

- (a) in relation to an article which is an infringing copy and which the person knows or has reason to believe is an infringing copy-
  - (i) makes it; or
  - (ii) otherwise than for his personal and private use, imports it into Swaziland or exports it from Swaziland; or
  - (iii) in the course of business, possesses it or exhibits it in public or distributes it;  
or

- (iv) sells it or lets it for hire or offers or exposes it for sale or hire; or
  - (v) otherwise than in the course of business, distributes it to such an extent that the owner of the copyright is prejudicially affected;
- (b) in relation to an article which is specifically designed or adapted for making copies of the work and which the person knows or has reason to believe is likely to be used for that purpose-
- (i) makes it; or
  - (ii) imports it into Swaziland or exports it from Swaziland; or
  - (iii) possesses it in the course of business; or
  - (iv) sells it or lets it for hire or offers or exposes it for sale or hire.

(3) Without derogation from subsection (1), the copyright in a work is infringed by a person who, without the authority of the owner of the copyright, transmits the work by means of a public computer network or telecommunication service, otherwise than by broadcasting or inclusion in a cable programme service, if the person knows or has reason to believe that infringing copies of the work are likely to be made by means of the reception of the transmission, whether in Swaziland or elsewhere.

(4) The copyright in a literary or musical work is infringed by any person who permits a place of public entertainment to be used for a performance of the work in public, where the performance constitutes an infringement of the copyright in the work:

Provided that this subsection shall not apply where that person was not aware and had no reasonable grounds for suspecting that the performance would be an infringement of the copyright.

(5) Where the copyright in a work is infringed by a public performance of the work, or by the playing or showing of the work in public, through an apparatus for-

- (a) playing sound recordings; or
- (b) showing audio-visual works; or
- (c) receiving visual images or sounds or other information conveyed by electronic means;

the following persons shall be liable for the infringement, in addition to the person directly responsible for controlling and using the apparatus-

- (i) a person who supplied the apparatus or any substantial part of it, if when he supplied it he knew or had reason to believe that the apparatus was likely to be used so as to infringe copyright; and
- (ii) an occupier of premises who gave permission for the apparatus to be brought on to the premises if, when he gave permission, he knew or had reason to believe that the apparatus was likely to be used so as to infringe copyright; and

- (iii) a person who supplied a copy of the sound recording or audio-visual work if, when he supplied it, he knew or had reason to believe that what he supplied, or a copy made directly or indirectly from it, was likely to be used so as to infringe copyright.

***Owner of copyright entitled to remedies for infringement***

41. (1) Subject to this Act, an infringement of copyright shall be actionable at the suit of the owner of the copyright.

(2) Subject to this Act, in any proceedings for an infringement of copyright there shall be available to the plaintiff all such remedies by way of damages, interdict, attachment, the rendering of account, the delivery of infringing copies or articles used or intended to be used for making infringing copies or otherwise, as are available in respect of the infringement of any other proprietary right.

***Rights and remedies of exclusive licensee***

42. An exclusive licensee shall have the same rights of action and be entitled to the same remedies as if the licence were an assignment, and those rights and remedies shall be concurrent with the rights and remedies of the owner of the copyright under which the licence was granted.

***Cases where interdict not available***

43. In proceedings for infringement of copyright in respect of the construction of a building, no interdict or other order shall be made-

- (a) after the construction of the building has been begun so as to prevent it from being completed; or
- (b) so as to require the building, in so far as it has been constructed, to be demolished.

***Anton Piller orders***

44. (1) If a person who has instituted or intends instituting proceedings for infringement of copyright satisfies the court that, prima facie-

- (a) he has a cause of action against another person which he intends to pursue; and
- (b) the other person has in his possession documents, infringing copies or other things of whatsoever nature which constitute evidence of great importance in substantiation of that cause of action; and
- (c) there is a real and well-founded apprehension that the documents, infringing copies or other things may be hidden, destroyed or rendered inaccessible before discovery can be made in the usual way;

the court may make such order as it considers necessary or appropriate to secure the preservation of the documents, copies or things as evidence.

(2) An order in terms of subsection (1) may be granted without notice to the person who is allegedly in possession of the documents, infringing copies or other things to which the order relates, and the court may sit in camera for the purpose of hearing an application for such an order:

Provided that the Court shall not grant an order without such notice unless it is satisfied that there is a real possibility that the documents, copies or things will be hidden, destroyed or rendered inaccessible if notice is given.

(3) An order in terms of subsection (1) may be granted on such conditions, including the giving of security by the applicant, as the court may fix.

(4) This section shall not be taken to limit any power a court may have under its ordinary jurisdiction to grant orders such as are referred to in this section.

***Offences and penalties in respect of infringement***

45. (1) A person shall be guilty of an offence if, at a time when copyright subsists in a work, he does any of the following things in Swaziland, without the authority of the owner of the copyright in the work-

- (a) in relation to an article which is an infringing copy and which the person knows or has reason to believe is an infringing copy-
  - (i) he makes it; or
  - (ii) otherwise than for his personal and private use, he imports it into Swaziland or exports it from Swaziland; or
  - (iii) in the course of business, he possesses it or exhibits it in public or distributes it; or
  - (iv) he sells it or lets it for hire or offers or exposes it for sale or hire; or
  - (v) otherwise than in the course of business, he distributes it to such an extent that the owner of the copyright is prejudicially affected;
- (b) in relation to an article which is specifically designed or adapted for making copies of the work and which the person knows or has reason to believe is to be used for that purpose-
  - (i) he makes it; or
  - (ii) he imports it into Swaziland or exports it from Swaziland; or
  - (iii) he possesses it in the course of business; or
  - (iv) he sells it or lets it for hire or offers or exposes it for sale or hire.

(2) Any person who causes a literary or musical work to be performed in public knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright, shall be guilty of an offence.

(3) Any person who causes a broadcast to be re-broadcast or transmitted in a cable programme service, knowing that copyright subsists in the broadcast and that the re-broadcast or transmission constitutes an infringement of the copyright, shall be guilty of an offence.

(4) Any person who causes a programme-carrying signal to be distributed without the authority of the owner of the copyright in the signal, knowing that copyright subsists in the signal and that the re-broadcast constitutes an infringement of the copyright, shall be guilty of an offence.

(5) A person guilty of an offence under this section shall be liable to a fine not exceeding twenty thousand Emalangeni (E20 000) or to imprisonment for a period not exceeding three (3) years or to both such fine and such imprisonment in respect of each article to which the offence relates.

***Restriction on importation or exportation of infringing copies***

46. (1) If the owner of the copyright in any work, by written notice to the Commissioner of Customs-

- (a) informs him that he is the owner of the copyright in the work; and
- (b) satisfies him that there are reasonable grounds for suspecting that copies of the work which-
  - (i) are infringing copies; or
  - (ii) would be infringing copies if they had been made in Swaziland;
  - (iii) have been or may be imported into or exported from Swaziland; and
- (c) requests him to treat the copies referred to in paragraph (b) as prohibited goods; and
- (d) describes the copies concerned with sufficient particularity to make them readily identifiable;

The Commissioner of Customs shall forthwith comply with the request and ensure that no such copy is imported into or exported from Swaziland, and that any such copy that has been imported but not yet entered is not released to the importer:

Provided that the Commissioner need not comply with such a request until the owner of the copyright furnishes him with security in such form and for such amount as the Commissioner may require to secure the fulfillment of any liability and the payment of any expense which he may incur as a result of the detention of any copy of the work to which the request relates or as a result of anything done in relation to a copy so detained.

(2) Where a request has been made under subsection (1) and has not been withdrawn, the importation into or exportation from Swaziland of any copy of the work to which the request relates shall be prohibited for a period of ten working days from the date on which the Commissioner of Customs complies with the request:

Provided that-

- (i) if within that period the owner of the copyright concerned has instituted proceedings for an order in terms of subsection (3), or proceedings for any other order leading to a decision on the merits of the matter, the importation or exportation of the copies concerned shall continue to be prohibited until the determination of those proceedings or until the court orders otherwise;
- (ii) this subsection shall not apply to the importation or exportation of a single copy of the work by a person for his personal and private use.

(3) If the owner of the copyright in any work satisfies the court that-

- (a) he is the owner of the copyright in the work; and
- (b) there are reasonable grounds for believing that infringing copies of the work or copies of the work which, if they had been made in Swaziland, would be infringing copies are being or may be imported into or exported from Swaziland;

the court may issue an order directing the Commissioner of Customs to prevent the importation or exportation, as the case may be, of every such copy of the work.

(4) An order under subsection (3)-

- (a) shall describe the copies of the work concerned with sufficient particularity to make them readily identifiable; and
- (b) may be granted subject to conditions, including the giving of security by the applicant and the inspection of the copies concerned.

(5) The Commissioner of Customs shall take all necessary steps to inform an importer or exporter or intended importer or exporter of goods whose importation or exportation is prohibited by virtue of this section of the reasons for the prohibition.

(6) While any goods are detained pursuant to a request or an order under this section-

- (a) the person at whose instance the request or order was made; and
- (b) the importer of the goods;

shall be given an adequate opportunity to inspect the goods in order to determine whether or not they are infringing copies.

## **PART VII** **MORAL RIGHTS**

### ***Right to be identified as author or director***

47. (1) Subject to this Part, the author of a literary, artistic or musical work shall, have the right to be identified as the work's author for so long as copyright subsists in the work, whenever-

- (a) the work is published commercially, performed in public, broadcast or included in a cable programme service; or

- (b) copies of an audio-visual work or a sound recording including the literary work are issued to the public.

***Right not to be identified as author or director***

48. (1) The author of a literary, artistic or musical work has the right, for so long as copyright subsists in the work, not to be identified as its author-

- (a) on any copies that are issued to the public; or
- (b) in the case of a building, by any means visible to persons entering or approaching the building.

(2) The director of an audio-visual work has the right, for so long as copyright subsists in the work, not to be identified whenever the work is shown in public, broadcast or included in a cable programme service, or whenever copies of the work are issued to the public.

***Right to object to derogatory treatment of work***

49. (1) In this section-

“derogatory treatment”, in relation to a work, means any alteration, modification or adaptation of a work which amounts to distortion or mutilation of the work or is otherwise prejudicial to the honour or reputation of its author or director.

(2) Subject to this Part, the author of a literary, musical or artistic work, and the director of an audio-visual work, has the right, for so long as copyright subsists in the work, not to have a derogatory treatment of his work published commercially, performed or shown in public, broadcast or included in a cable programme service.

(3) The right conferred by subsection (2) shall not apply in relation to-

- (a) an architectural work in the form of a building:

Provided that, where the author of such a work is identified on the building and it is subjected to derogatory treatment, he shall have the right to have the identification removed; or

- (b) an audio-visual work, a computer program or any computer-generated work, where the alteration, modification or adaptation of the work is necessary on technical grounds or for the purpose of its commercial exploitation; or

(c) publication in-

- (i) a newspaper, magazine or similar periodical; or
- (ii) an encyclopaedia, dictionary, yearbook or other collective work of reference;

of a literary, dramatic or artistic work made for the purposes of such publication or made available with the consent of the author for the purposes of such publication; or

- (d) anything to which the author or director concerned has consented or in regard to which he has waived his right; or

- (f) anything done for the purpose of avoiding the commission of an offence or complying with a duty imposed by or under an enactment:

Provided that, where such a thing is done, a clear and reasonably prominent indication shall be given that the work has been subjected to treatment to which the author or director has not consented.

***Right to privacy with regard to certain photographs and audio-visual works***

50. (1) Subject to this Part, a person who, for private and domestic purposes commissions the taking of a photograph or the making of an audio-visual work has the right, for so long as copyright subsists in the work, not to have-

- (a) copies of the work issued to the public; or
- (b) the work exhibited or shown in public; or
- (c) the work broadcast or included in a cable programme service.

(2) The right conferred by subsection (1) shall not apply in relation to anything to which the person concerned has consented or in regard to which he has waived his right.

***Transmission of moral rights***

51. Moral rights shall not be transmissible during the lifetime of the person in whom they vest in terms of section 34 as the case may be, but they may be transmitted by testamentary disposition or by operation of law on that person's death.

***Enforcement of moral rights***

52. Moral rights may be enforced under this Act in all respects as if the persons in whom they vest were owners of copyright and infringements of the rights were infringements of that copyright.

**PART VIII**  
**NEIGHBOURING RIGHTS**

***Acts requiring authorisation of performers***

53. (1) Without the authorisation of a performer, no person shall do any of the following acts-

- (a) make a recording of a performance; or
- (b) broadcast a performance live or include it live in a cable programme service; or
- (c) by means of an illicit recording, broadcast a performance or includes it in a cable programme service; or
- (d) import an illicit recording of a performance into Swaziland or exports it from Swaziland, other than for his personal and private use; or

(e) in the course of a business, sells or lets for hire, offers or exposes for sale or distributes an illicit recording of a performance.

(2) In the absence of any agreement to the contrary or of circumstances of employment from which the contrary would ordinarily be inferred-

(a) the authorisation to broadcast or distribute by cable shall not imply an authorisation-

(i) to license other organisations to broadcast or distribute the performance by cable; or

(ii) to fix the performance; or

(iii) to reproduce the fixation; and

(b) the authorisation to fix the performance and to reproduce the fixation shall not imply an authorisation to broadcast or distribute the performance by cable from the fixation or any reproduction of such fixation.

(3) Where the performers have authorised the fixation of their performance by a broadcaster or by broadcast or distribution by cable, the performance shall be deemed to have been used commercially.

(4) Nothing in this section shall be construed so as to deprive performers of the right to conclude contracts containing more favourable terms and conditions in respect of the use of their performances.

(5) The rights under this section shall subsist for twenty (20) years computed from the end of the year in which-

(a) in the case of a performance, the performance took place; or

(b) in the case of a broadcast, the broadcast took place; or

(c) in the case of sound recordings, the fixation was made.

#### ***Granting of authorisation by performers***

54. (1) A binding authorisation under section 53 may be given by a performer or by a duly appointed representative to whom he has granted, in writing, the right to give such authorisation.

(2) Any authorisation given by a performer claiming that he has retained the relevant rights or by a person claiming to be the duly appointed representative of a performer shall be considered valid, unless the recipient knew or had good reason to believe that the claim or appointment, as the case may be, was not a valid one.

#### ***Acts requiring authorisation of producers of sound recordings***

55. Without the authorisation of the producer of a sound recording, no person shall do any of the following acts-

- (a) directly or indirectly reproduce the sound recording, in any manner or form;
- (b) import copies of the sound recording for distribution to members of the public;
- (c) distribute to the public copies of the sound recording; or
- (d) communicate the sound recording to the public by performance or other means.
- (e) make available the sound recording, by wire or wireless means, in such a way that members of the public may access it from the place or at a time individually chosen by them.

(2) For the purposes of this section, a copy of a sound recording shall be unlawful if with, or without imitating the outward characteristics of the original work it incorporates all or part of the producers' sound recording without his authorisation.

(3) Where a sound recording is published for commercial purposes or a reproduction thereof is used for broadcasting or for any other form of communication to the public, the user shall, in respect of the use thereof, pay to the producer of the sound recording such remuneration as it is equitable to the producer and performers.

(4) The protection referred to in subsection (1) shall subsist for twenty years (20) computed from the end of the year in which the sound recording was published for the first time or, failing such publication, within twenty (20) years from the date on which the fixation of the sound recording was made.

#### ***Obligations of producers of sound recordings***

56. (1) The producer of a sound recording shall state on the label of the recording or on its container-

- (a) the names of the author and those of the main performer;
- (b) the title of the words;
- (c) the name, whether individual or corporate or distinguishing mark of the producer;  
and
- (d) that the rights accruing to the producer in terms of this Act are reserved.

(2) For the purposes of subsection (1) (a) choirs, orchestra and composers shall be referred to by their proper names and by the name of their leader, if any.

#### ***Equitable remuneration for use of sound recordings***

57. (1) Where a sound recording that was published for commercial purposes, or a reproduction of such sound recording, is used directly for broadcasting, distribution by cable or for other communication to the public, the user shall pay the producer a single equitable remuneration for such use.

(2) Unless otherwise agreed between the performers and the producer, half of the amount received from the producer under subsection (1) shall be paid to the performers.

(3) The amount received from the producer under subsection (2) shall be divided amongst the performers as agreed among them.

(4) The right to an equitable remuneration under this section shall subsist for twenty (20) years computed from the end of the year in which the sound recording was published for the first time, or, failing that, from the date on which the sound recording was initially made.

(5) This section shall not apply where a broadcast is made for non-profit making purposes or where communication to the public in public places is not for commercial gain.

***Notice of protection of a sound recording***

58. (1) Where copies of a sound record are made for commercial purposes, there shall be printed on the copies, a notice consisting of-

- (a) the symbol (P); and
- (b) the date of the first publication of the sound recording, placed in such manner as to give reasonable notice of claim of protection of the rights of the producer.

(2) Where the copies or their containers do not identify the producer by carrying his name, trade mark or other appropriate designation, the notice shall also include the name of the owner of the copyright in the recording.

(3) Where the notice specified in subsection (1) is printed on a sound recording or on the container thereof, such notice shall be “prima facie” evidence of the facts stated thereon for the purpose of any proceedings brought in terms of this Act with respect to the rights of the producer.

(4) Non compliance with the provisions of this section shall not affect the legal protection provided under this Part.

***Acts requiring authorisation of a broadcasting organisation***

59. (1) A broadcasting organisation shall have the exclusive right to carry out or to authorise the –

- (a) rebroadcast of its broadcast or parts of it;
- (b) distribution by cable of its broadcast or parts of it;
- (c) fixation of its broadcast or parts of it;
- (d) communication to the public of its television broadcast; and
- (e) reproduction of a fixation of its broadcast or parts of it.

(2) The protection under this section shall subsist for twenty years (20) computed from the end of the year in which the broadcast was made.

***Protection of performances in public places***

60. Where, in a public place, by means of broadcasting, cinematography, jukebox or other apparatus, a sound recording or other devices are used in a public performance, the authors, performers and the producers of that sound recording shall be entitled to royalties in terms of this Act.

***Limitation of protection***

61. (1) Sections 53, 55, 57 and 58 shall not apply where the acts referred to in those sections are made for-

- (a) private use;
- (b) the reporting of current events;
- (c) teaching or research;
- (d) quotation in the form of short excerpts of a performance, sound recording or broadcast which are compatible with fair practice and are justified by the informative purpose of those quotations; and
- (e) for such other purposes as to constitute exceptions in respect of copyright works under Part II of this Act.

(2) The requirements for authorisation under sections 53, 55, and 58 for making fixations of performances and broadcast, for reproducing such fixations and for reproducing sound recordings published for commercial purposes, respectively, shall not apply where the fixation or reproduction is made by a broadcasting organisation by means of its own facilities and for its broadcasts.

***Works belonging to the public domain***

62. (1) The following works shall belong to the public domain-

- (a) works whose term of protection have expired;
- (b) works in respect of which authors have renounced their rights; and
- (c) foreign works which do not enjoy protection in Swaziland.

(2) For the purposes of paragraph (b), renunciation by an author or his successor in title of his rights shall be in writing and made public;

Provided that any such renunciation shall not be contrary to any previous contractual obligation relating to the work.

(3) Subject to payment of fees that the Minister may prescribe in relation thereto, a work which has fallen into the public domain may be used without any restriction.

***Enforcement of rights***

63. The rights conferred by this Part may be enforced under this Act in all respects as if the persons in whom they are vested were owners of copyright and infringements of the rights were infringements of that copyright.

***Criminal liability for infringement of rights of performers and holders of recording rights***

64. (1) Any person who-

- (a) makes an illicit recording of a performance; or
- (b) imports an illicit recording of a performance into Swaziland or exports from Swaziland, otherwise than for his personal and private use; or
- (c) in the course of business, possesses an illicit recording of a performance or exhibits it in public or distributes it; or
- (d) sells an illicit recording of a performance or lets it for hire or exposes it for sale or hire;

Knowing or having reasonable grounds for believing that it is an illicit recording, shall be guilty of an offence and liable to a fine not exceeding twenty five thousand Emalangeni (E25 000) or to imprisonment for a period not exceeding five (5) years or to both such fine and such imprisonment.

(2) Any person who causes an illicit recording to be performed in public, knowing or having reasonable grounds for believing that it is an illicit recording, shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (E10 000) or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) Any person who causes an illicit recording to be broadcast or transmitted in a cable programme service, knowing or having reasonable grounds for believing that it is an illicit recording, shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (E10 000) or to imprisonment for a period not exceeding two (2) years or to both such fine and such imprisonment.

(4) Any person who falsely represents that he is authorised to give consent for the purposes of this Part in relation to a performance shall be guilty of an offence and liable to a fine not exceeding fifteen thousand Emalangeni (E15 000) or to imprisonment for a period not three years or to both such fine and such imprisonment.

**PART IX**  
**PROTECTION OF EXPRESSIONS OF FOLKLORE**

For the purposes of this Part, “expression of folklore” means a literary, musical or artistic work, whether or not it is recorded, of which-

- (a) no person can claim to be the author; and
- (b) the form or content is embodied in the traditions peculiar to one or more communities in Swaziland;

and includes-

- (i) folk tales, folk poetry and traditional riddles; and
- (ii) folk songs and instrumental folk music; and
- (iii) folk dances, plays and artistic forms of ritual; and
- (iv) productions of folk art, in particular drawings, paintings, sculptures, pottery, woodwork, metalwork, jewellery, baskets, costumes, carvings and mosaic; and
- (v) traditional musical instruments.

***Copyright in expressions of folklore to vest in Government***

65. Subject to the provisions of this Part, copyright in expressions of folklore shall vest in perpetuity in the Government on behalf and for the benefit of the people of Swaziland.

***Utilisation subject to authorisation***

66. (1) Subject to the provisions of section 67 the following uses of expressions of folklore shall be subject to approval by the Minister, when they are made for gainful purpose or outside their traditional and customary context-

- (a) any publication, adaptation, reproduction and any distribution of copies of expressions of folklore; and
- (b) communication to the public, including recitation, performance, broadcasting or distribution by cable, of expressions of folklore.

***Free uses of expressions of folklore***

67. Section 66 shall not apply in the following cases-

- (a) utilisation for the purposes of education;
- (b) utilisation by way of illustration in an original work of an author or authors to the extent that such utilisation is compatible with fair practice;
- (c) using expressions of folklore for creating an original work by an author inspired by folklore;
- (d) incidental utilisation of expressions of folklore, including, in particular, utilisation of an expression of folklore that can be seen or heard in the course of a current event for the purpose of reporting on that current event by means of photography, broadcasting or sound or visual recording to the extent that such utilisation is justified for informative purposes;
- (e) use of objects containing the expressions of folklore which are permanently located in a place where they can be viewed by the public, if the use consists in the inclusion of their image in a photograph, film or television broadcast.

***Acknowledgement of source of expression of folklore***

68. Whenever an identifiable expression of folklore is used in a printed publication or communicated to the public, the source of such expression of folklore shall be indicated in an appropriate manner by mentioning the community or geographic area from where the expression has been derived.

***Authorisation for use of expression of folklore***

69. (1) Applications for individual or blanket authorisation of any utilisation of expressions of folklore under this Act shall be made in writing to the Minister.

(2) Where the Minister grants authorization, he may fix the amount of such fees corresponding to such tariff as he may determine, which funds shall be appropriated to a central fund to be created for the development and promotion of national culture and folklore.

(3) Appeals against the decisions of the Minister may be made to a court by the person applying for the authorization or a representative of the interested community.

***Scope of protection***

70. (1) The protection of expressions of folklore under this Act shall in no way be interpreted as to hinder the normal use, maintenance and development of such expressions.

(2) This Part shall be in addition to and not in derogation from the other parts of this Act, or other law applicable to expressions of folklore or international treaties to which Swaziland is a party, relating to the protection of industrial property or any other forms of protection and preservation of expressions of folklore.

***Offences and penalties***

71. (2) A person who, without the authorisation of the Minister, imports or distributes copies of expressions of folklore derived from Swaziland or copies of translations, adaptations, arrangements or other transformations of such expressions of folklore, made outside Swaziland without the authorisation of the Minister, commits an offence and is liable, on conviction to fine not exceeding twenty five thousand Emalangeni (E25,000.00) or to imprisonment for a period not exceeding five (5) years or to both such fine and such imprisonment.

(3) A person who-

- (a) Without the authorisation of the Minister, utilizes an expression of folklore in contravention of section 66; or
- (b) contravenes section 68 commits an offence and is liable, on conviction, to a fine not exceeding ten thousand Emalangeni (E10,000.00) or to imprisonment for a period not exceeding two (2) years or to both such fine and such imprisonment.

(4) A person who -

- (a) wilfully deceives others in respect of the source of artefacts or subject matter of performance or recitations made available to the public by him in any direct or indirect manner, presenting such artefacts or subject matter as expressions of folklore of a certain community, from where in fact, they have not been derived; or

- (b) publicly uses, in any direct or indirect manner, expressions of folklore, wilfully distorting the same in a way prejudicial to the cultural interests of the community; or
- (c) gives authorisation on behalf of performers without being a duly appointed representative, or knowingly proceeds with such an unlawful authorisation,

commits an offence shall be liable, on conviction, to a fine not exceeding fifteen thousand Emalangeni (E15 000.00) or to imprisonment for a period not exceeding three (3) years or to both such fine and such imprisonment.

## **PART X**

### **ESTABLISHMENT OF COPYRIGHT OFFICE AND COPYRIGHT SOCIETY**

72. In this Part-

“Board” means the Copyright and Neighbouring Rights Collecting Society of Swaziland Board;

“foreign”, in relation to an author, performer, or society, means an author, performer or society who is not a Swazi citizen or permanent resident;

“inspector” means an inspector appointed in terms of section 96;

“member” means a member of the Society;

“Register” means the register of the Society;

“registering officer” means the registering officer of the Society referred to in section 82;

“registered” means registered in terms of this Part.

#### ***Establishment of Copyright Office***

73. There is hereby established an office to be known as the Copyright Office, which shall be situated at a place where the Minister may designate and shall be responsible for the registration of copyright and other matters in terms of this Act.

#### ***Copyright Assistant Registrar and other Officers***

74. (1) There shall be-

- (a) a Copyright Registrar; and
- (b) such examiners and other officers as may be necessary to carry out the provisions of this act;

whose offices shall be public offices and form part of the Civil Service.

(2) The Registrar shall exercise general supervision and direction over the Copyright Office.

(3) The Registrar shall be responsible for supervising the activities of the Copyright Society and to generally do anything else he is required to do by or under this Act or any other enactment.

***Seal of Copyright Office***

75. (1) The Copyright Office shall have a seal of a design approved by the Minister.

(2) Where a document bears an impression of the seal referred to in subsection (1), it shall be presumed, unless the contrary is proved that the document was issued by the Registrar for the purposes of this Act.

***Functions of the Copyright Office***

76. (1) The Copyright Office shall –

- (a) be responsible for all matters affecting copyright in Swaziland;
- (b) supervise the activities of the Copyright Society as provided for in this Act;
- (c) advise Government and its agencies on all matters pertaining to copyright;
- (d) monitor the position of Swaziland in relation to international conventions, treaties or agreements relating to copyright and to advise Government thereon;
- (e) advise Government on the conclusion of bilateral and multilateral agreements on copyright between Swaziland and other countries;
- (f) advise the Minister on all matters set out in this Act.
- (g) organise outreach and awareness creation programmes to inform, educate and sensitize the public on matters relating to copyright;
- (h) maintain an effective database on copyright matters and authors and their works;
- (i) maintain a register of works, productions and associations of authors and performers in Swaziland; and
- (j) be responsible for such matters relating to copyright, as the Minister may, from time to time, direct for the better carrying out of the purposes and provisions of this Act.

***Annual report***

77. (1) The Copyright Office shall, not later than three (3) months after the end of each financial year, submit to the Minister, an annual report of its activities for the year for which the report relates.

(2) The Minister shall, not more than six (6) months of his receipt of the annual report, submit the report to Parliament with such accompanying statement as he may consider necessary.

(3) The Copyright Office shall, at the request of the Minister, submit any other report so requested.

***Establishment of Copyright and Neighbouring Rights Society of Swaziland***

78. There is hereby established a Society to be known as the Copyright and Neighbouring Rights Society of Swaziland which shall be a non-profit making body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all acts that bodies corporate may by law perform.

***Functions and Powers of the Society***

79. (1) The Society shall-

- (a) represent and defend the interests of the owners of copyright in the various categories of works protected in terms of this Act in Swaziland and abroad;
- (b) maintain a register of works, productions and associations of authors and performers;
- (c) put in place rules and regulations which contain such provisions as are necessary to ensure the protection of the interests of its members;
- (d) be responsible for the negotiation and granting of licences; and
- (e) be responsible for the collection and distribution of royalties to appropriate right owners;
- (f) enter into reciprocal agreements with foreign societies of authors and performers for the exclusive authorisation in respect of the use of their members' work and for the collection and distribution of royalties deriving from those works;
- (g) help in the preparation of standard forms of contracts of assignment of copyright or of licence for the benefit and use of its members;
- (h) provide its members with information and advice on all matters relating to copyright;
- (i) act for its members in the management of their rights in terms of this Act;
- (j) represent authors and performers in the negotiation and administration of licence schemes;
- (k) negotiate for the grant of licences as agent for the members;
- (l) provide members with information and advice on all matters relating to copyright;
- (m) foster such harmony and understanding between members and the users of their work, as shall be necessary for the protection of their rights;
- (n) determine the rates of royalties to be levied in respect of registered works;
- (o) levy fees on registered works and associations;
- (p) distribute royalties on an equitable basis to its members, whether local or foreign;

- (q) perform any other function as may be assigned to the Society by the Copyright Office; and
- (r) exercise such power and perform such other function as may be required by this Act.

(2) The operations of the Society shall be controlled and managed by the Copyright and Neighbouring Rights Society of Swaziland Board.

(3) The Board shall consist of-

- (a) two members appointed by the Minister of whom one shall be a representative from the Ministry and the other a registered legal practitioner;
- (b) two representatives of an association considered by the Minister to be representative of authors, appointed by the Minister after consultation with the association;
- (c) two representatives of an association considered by the Minister to be representative of performers, appointed by the Minister after consultation with the association;
- (d) one representative from the Ministry responsible for Information;
- (e) one representative from the Ministry responsible for Culture;
- (f) one representative from the Ministry responsible for Education; and
- (g) one representative from the traditional leadership.

(4) The First Schedule shall apply to the qualifications of members of the Board, their terms and conditions of office, vacation of office and the procedure to be followed by the Board at its meetings.

(5) The Second Schedule shall govern the financial and other aspects of the operations of the Society.

(6) The Minister shall appoint the Chairman for the society from the members as outlined above.

### ***Funds of the Society***

80. The funds of the Society shall consist of-

- (a) a prescribed portion of royalties or licence fees collected on behalf of members; and
- (b) any moneys that may be payable to the Society from moneys appropriated for the purpose by an Act of Parliament; and
- (c) any loans, donations or grants made to the Society with the approval of the Minister by any person or authority or by the government of any country; and
- (d) any other moneys that may accrue to the Society, whether in the course of its operations or otherwise.

***Society to maintain register***

81. (1) The Society shall maintain a register of registered works, productions and associations of authors, artists and performers.

(2) The publisher of a work in Swaziland may cause that work to be registered in the register kept by the Society within three (3) months of publication of such work and a copy of the best edition shall be deposited at the office of the Society.

(3) The register shall be open to inspection at all convenient times by members of the public, on payment of the prescribed fee, if any.

(4) The Society shall provide a certified copy of an entry in the register to any person who requests it and who pays the prescribed fee.

***Accounts and Audit***

82. (1) The Society shall-

- (a) keep proper accounts and other records in respect of the funds received and collected and shall in every respect comply with the provisions of the Finance and Audit Act, 1967;
- (b) submit to the Copyright Office annually or as often as the Office may direct, audited accounts in respect of finances and property, and an estimate of income and expenditure for the following financial year;
- (c) submit a report of its operations and performance during the year in question.

(2) The accounts of the Society shall be examined and audited annually by auditors appointed by the Society and approved by the Minister.

(3) The financial year of the Society shall be a period of twelve months beginning on 1st April every year and ending on 31st March the following year.

(4) The first financial year of the Society may be such longer period not exceeding eighteen months from the date of commencement of this Act and as the Minister may approve.

***Registering officer of the Society***

83. (1) The Society shall appoint a registering officer to enable it to carry out its functions in terms of this Part.

(2) The Society shall establish a register, to be known as the Register of the Copyright and Neighboring Rights Society of Swaziland.

(3) The Registering Officer of the Society shall be responsible, subject to any directions given to him by the Copyright Office, for maintaining the Register and ensuring that entries are made in the Register recording-

- (a) the name and such other particulars as may be prescribed of each author and performer who has been registered; and

- (b) particulars of the cancellation or suspension of any person's registration or restoration of any such cancelled registration or the termination of any such suspension; and
- (c) particulars of the work of the author or performer in respect of which the society may collect royalties or licence fees or negotiate the granting of licences on behalf of the author or performer; and
- (d) any necessary corrections or alterations to any particulars or facts referred to in paragraph (a), (b) or (c); and
- (e) any other particulars that may be prescribed or that the office may determine.

(4) Any person may inspect the Register and make copies of any entry therein at all reasonable times on payment of such fee as may be prescribed:

Provided that no such fee shall be payable by-

- (a) a police officer or a member of the Public Service acting in the course of his or her duty as such; or
- (b) any other person whom the office has authorised to inspect the register free-of-charge.

***Application for membership of Society and registration of works of authors and performers***

84. (1) Any-

- (a) author or performer whose work is eligible in terms of this Act for protection may;
- (b) foreign author or performer whose work is eligible in terms of the law of any foreign country for protection may, on payment of the prescribed fee;

apply for registration in terms of this section.

(2) An author or performer shall become a member of the Society by virtue of registering his work with the Society in terms of this section.

(3) An application for registration in the register of-

- (a) any work of an author or performer may be made, subject to this Part, by or on behalf of the author or performer;
- (b) an assignment or licence of work of an author or performer may be made, subject to this Part, by or on behalf of the author or performer or by or on behalf of the licensee or assignee, as the case may be.

(4) An application under subsection (3) shall be made in the prescribed form and manner and within the prescribed period, if any, and shall be accompanied by-

- (a) such documents and other information as may be prescribed or as the registering officer may reasonably require; and

(b) in the case of foreigners, the prescribed fee.

(5) The registering officer shall accept an application under paragraph (a) or (b) of subsection (3) for the registration of a work of an author or performer or of any assignment or licence of such work, if he is satisfied that-

- (a) all the prescribed requirements have been met with regard to the application; and
- (b) the work concerned enjoys protection in terms of this Act or in terms of the law of any foreign country; and
- (c) in the case of an assignment or licence, it has been duly granted in accordance with this Act;

and, subject to subsection (6), if the registering officer is not so satisfied he shall refuse the application.

(6) If an applicant has not been able to satisfy the registering officer as to any matters referred to in subsection (4) or (5) but the registering officer considers that he will be able to do so before a final decision is made on the application, the registering officer may accept the application subject to such modifications, conditions or limitations as may be appropriate.

(7) The registering officer may at any time, whether before or after acceptance of the application, correct any error in or in connection with an application under subsection (3).

(8) At the request of a person whose application under subsection (3) has been refused or accepted subject to modifications, conditions or limitations, and on payment of the prescribed fee, the registering officer shall provide him, in writing, with the grounds for his decision and the information he used in arriving at that decision.

(9) Where the registering officer has provided an applicant with grounds for his decision in terms of subsection (8), in any appeal to the Tribunal arising out of that decision-

- (a) the appeal shall be determined on the information which the registering officer stated he used in arriving at his decision and on any further information the applicant may have laid before him; and
- (b) the registering officer may take no further grounds of objection to the application other than those stated by him, except with the leave of the Tribunal, and where the Tribunal gives the registering officer such leave the applicant shall be entitled, on giving the prescribed notice, to withdraw his appeal without payment of costs.

***Advertisement of accepted application***

85. (1) Where the registering officer has accepted an application under section 83, whether absolutely or subject to conditions or limitations, the applicant shall, without delay cause the application as accepted to be advertised in the prescribed manner, and the advertisement shall set forth any conditions and limitations subject to which the application was accepted:

Provided that the registering officer may require an application to be advertised before acceptance in any case where he or she considers that there are exceptional circumstances which make it expedient to do so, and where an application has been so advertised the registering officer may, if he thinks fit, require it to be advertised again after it has been accepted.

(2) After advertisement in terms of subsection (1), the application and any documents that were lodged in support of the application may be inspected by members of the public, on payment of the prescribed fee, at all convenient times during office hours at the office of the registering officer.

(3) If an application is not advertised in terms of subsection (1) within six months after the registering officer has accepted the application, or within such longer period as the registering officer may allow, it shall be deemed to have been abandoned.

***Opposition to registration***

86. (1) Within two months after an application has been advertised in terms of section 84, or within such longer period as the registering officer may allow, any person may give notice to the registering officer of opposition to the registration, which notice shall-

- (a) be given in writing in the prescribed manner; and
- (b) set out the grounds of opposition.

(2) The registering officer shall send the applicant a copy of any notice of opposition in terms of subsection (1) and, within one month after receiving it or within such longer period as the registering officer may allow, the applicant may send to the registering officer, in the prescribed manner a response to the opposition, setting out the grounds on which it should be dismissed.

(3) If an applicant does not send the registering officer a response in terms of subsection (2) he shall be deemed to have abandoned his application.

(4) As soon as possible after receiving a response in terms of subsection (2), the registering officer shall send a copy of it to every person who gave notice of opposition to the application.

***Decision on application for registration***

87. (1) If, after an application has been advertised in terms of section 84-

- (a) the registering officer has not received a notice of opposition in terms of section 85 within the period specified in that section; and
- (b) the registering officer is satisfied as to the matters and circumstances referred to in subsection (5) and (6), as the case may be, of section 83;

he shall proceed to register the author or performer concerned.

(2) If the registering officer has received a notice of opposition and response in terms of section 85, he shall consider the submissions made therein and, if he considers it necessary or if he is required to do so by either party, he shall hear any evidence the parties wish to adduce, and thereupon without delay shall proceed to-

- (a) reject the application concerned; or
- (b) register the work, assignment or licence concerned; or
- (c) refer the matter to the Tribunal in terms of subsection (3).

(3) Where-

- (a) the registering officer considers that it is desirable to do so because of any point of law involved or the unusual importance or complexity of the matter; or
- (b) the applicant and all persons who have given notice of opposition so request;

the registering officer shall refer an application to the Tribunal for decision and shall thereafter act in the matter in accordance with the Tribunal's decision.

(4) When entering in the register the registration of an assignment or licence that has been granted for a limited term, the registering officer shall specify its duration.

(5) The registering officer may register any work, assignment or licence in terms of this section subject to such modifications, conditions or limitations as may be prescribed.

(6) On registering any work, assignment or licence in terms of this section, the registering officer shall issue the applicant with a certificate of registration in the prescribed form.

***Effective date and duration of registration***

88. (1) Where the registering officer registers any right or matter in terms of section 86, he shall do so with effect from the date on which the application for its registration was lodged, and that date shall be deemed to be the date of its registration for the purposes of this Part.

(2) The registration of authors and performers shall continue until the registration is deleted or cancelled in terms of section 88 or 89.

***Power of registering officer to allow amendments to applications and documents***

89. (1) Where rights under an assignment or licence which is the subject of a pending application for registration under this Part have been transferred to another person after the application has been lodged, the registering officer may, on application allow the transferee to be substituted as applicant.

(2) At any time before the registration of any right or matter under this Part, the registering officer may allow the amendment of the application or of any document relating to the application, on such terms as he thinks fit.

***Proceedings before registering officer***

90. (1) Evidence in any proceedings before the registering officer under this Part shall be given by affidavit:

Provided that the registering officer may, if he thinks fit in any particular case, take oral evidence on oath in lieu of or in addition to such evidence.

(2) The registering officer may, in any proceedings before him under this Part-

- (a) allow any witness to be cross-examined on his affidavit or oral evidence;
- (b) decide the hours, times and places at which he will sit.

(3) For the purposes of any proceedings before him under this Part, the registering officer shall have the same powers, rights and privileges as are conferred upon a commissioner by the Commissions of Inquiry Act, 1963, other than the power to order a person to be detained in custody, and sections 11 to 15 of that Act shall apply, with necessary changes, in relation to the hearing and determination of any matter before the registering officer under this Part and to any person summoned to give evidence or giving evidence before him.

***Duty of registering officer to give opportunity to make representations***

91. The registering officer shall not exercise any discretionary power given to him under this Part in a manner which adversely affects the rights of any person unless he has given that person a reasonable opportunity to make representations in the matter, either personally or by his agent.

***Power of registering officer to rectify Register***

92. (1) Subject to section 90, the registering officer may, on his own initiative or on application by any interested person, alter any entry in the Register by-

- (a) correcting any error in any name or address recorded therein;
- (b) altering the name or address of a person who has changed his name or address;
- (c) canceling the registration of any right, assignment or licence, where he is satisfied that it has ceased to exist; or
- (d) deleting any erroneous entry; or
- (e) correcting any other error in the entry concerned.

(2) An application for the correction of an entry under subsection (1) shall be made in the prescribed form and manner and shall be accompanied by the prescribed fee.

***Power of Tribunal to rectify Register***

93. (1) Any interested person who maintains that-

- (a) an entry was made in the register without sufficient cause; or
- (b) an entry wrongly remains in the register; or
- (c) there is an error or defect in the register;

may apply to the Tribunal for the rectification of the register by the deletion or correction of the entry concerned.

(2) If the registering officer is satisfied that any entry in the register-

- (a) has been secured by fraud or misrepresentation; or
- (b) was made without sufficient cause or wrongly remains on the register;

he may apply to the Tribunal for an order rectifying the register by the deletion or correction of the entry concerned.

(3) In an application under subsection (1) or (2), the Tribunal may decide any question that may be necessary or expedient for it to decide in connection with the rectification of the register, and may make such order in connection with the application as it thinks fit.

(4) An order of the Tribunal rectifying the register shall be directed to the registering officer and, on being notified of the order, the registering officer shall rectify the register accordingly.

***Certified copies of entries in register***

94. The registering officer shall provide a copy of any entry in the register, certified with a seal to any person who requests it and who pays the appropriate fee.

***Right of registering officer to appear in proceedings regarding register***

95. In any proceedings before the Tribunal or any court in which the relief sought includes an alteration or rectification of the register, the registering officer shall have the right to appear and be heard, and shall appear if so directed by the Tribunal or court, as the case may be.

***Penalty for false entries and false statements***

96. Any person who-

- (a) knowingly makes a false entry in the register or causes such an entry to be made; or
- (b) prepares or causes to be prepared a document which falsely purports to be a copy of an entry in the register or a statement of the registering officer; or
- (c) produces or tenders in evidence, or causes to be so produced or tendered, an entry or document referred to in paragraph (a) or (b), knowing the entry or document to be false; or
- (d) makes a false statement or representation, knowing it to be false, for the purpose of-
  - (i) deceiving the registering officer in the execution of his functions under this Part; or
  - (ii) procuring or influencing the doing or omission of anything in relation to this Part;

shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”.

***Appointment of Inspectors***

97. (1) The Society may appoint persons employed by it to be inspectors for the purposes of this Act and shall furnish each person so appointed with a certificate signed by it stating that he has been appointed as an inspector.

(2) An inspector may require a person whom he has reasonable cause to suspect is a person required in terms of this Act to possess a licence to use works of performers and authors for commercial gain to produce his licence.

(3) If a person referred to in subsection (2)-

- (a) is unable to produce his licence on demand; or
- (b) cannot be located at his usual or last known place of abode or business;

the inspector concerned may serve on the person a notice in the prescribed form requiring that person to produce that notice and his licence to the police officer in charge of a police station within a period of seven days from the date of service of that notice.

(4) A police officer to whom a notice and a licence have been produced in terms of subsection (3) shall forthwith-

- (a) issue to the person who produced the notice and the licence a receipt in the prescribed form; and
- (b) notify the inspector who served the notice that the notice and licence have been produced.

(5) If a person who has been served with a notice in terms of subsection (2)-

- (a) fails to comply with the requirement contained in that notice, he shall be presumed, until the contrary is proved, not to be the holder of a licence, referred to in the notice;
- (b) is subsequently prosecuted for failing to comply with the requirement contained in that notice, he shall be presumed, unless the contrary is proved, not to have produced that notice and his licence, in compliance with the notice.

(6) Subject to subsection (7), an inspector may at all reasonable times enter premises on which he has reasonable cause to suspect an offence against this Act has been committed and shall have power to make such search, inspection and inquiry to ascertain whether compliance has been made with this Act.

(7) The power of entry and inspection conferred by this section shall not be exercised—  
(a) except with the consent of the person in charge of the premises concerned or in accordance with a search warrant issued in terms of section 46 of the Criminal Procedure and Evidence Act, 1938; or

- (b) except with the consent of the person in charge of the premises concerned, unless there are reasonable grounds for believing that it is necessary to exercise them for the prevention, investigation or detection of an offence in terms of this Act or for obtaining of evidence relating to such an offence.

(8) An inspector shall, on demand by any person affected by the exercise of the powers conferred upon him by this section, exhibit the certificate issued to him in terms of subsection (1).

**PART XI****APPEALS TO TRIBUNAL AGAINST DECISIONS OF REGISTERING OFFICER**

For the purposes of this Part, “Tribunal” refers to the Swaziland Intellectual Property Tribunal established in terms of the Swaziland Intellectual Property Tribunal Act.

***Right of appeal to Tribunal against decisions of Registering Officer***

98. Any person who is aggrieved by a decision of the registering officer-

- (a) in regard to the registration of any right under Part X, including a decision-
  - (i) to impose any modification, condition or limitation on his acceptance of an application under section 81; or
  - (ii) to refuse to allow an applicant further time within which to advertise an application in terms of section 82; or
  - (iii) to register or not to register any right or matter under section 84;
  - (iv) to impose any modification, condition or limitation on the registration of any right or matter under section 84; or
  - (v) to refuse to allow the amendment of an application or a document in terms of section 88; or
  - (vi) to rectify the Register under section 88; or
  - (vii) to refuse to allow a person further time to file any document;

may appeal to the Tribunal against the decision concerned.

***Noting of appeal***

99. An appeal in terms of section 94 shall be noted by lodging a written notice of appeal with the Registrar of the Tribunal and with the Registering Officer within twenty days from the date on which the appellant was notified of the decision which is the subject of the appeal.

***Powers of Tribunal on appeal***

100. In an appeal in terms of section 94, the Tribunal may-

- (a) exercise the same discretionary powers in relation to the decision or order in issue as are conferred on the Registering Officer by the relevant provisions of this Act;
- (b) remit the matter to the Registering Officer with instructions for the taking of further evidence or the setting out of further information;
- (c) order the parties, or any of them, to produce such further evidence or information as the Tribunal may specify;
- (d) confirm, vary or set aside the decision appealed against or give such other decision as in its opinion the Registrar ought to have given;

- (e) make such order as to costs as it thinks fit.

**PART XII**  
**GENERAL PROVISIONS**

***Devices designed to circumvent copy-protection***

101. (1) In this section-

“copy-protection” means a device or arrangement of any description which is designed to prevent or restrict the making of unauthorised copies of a work or to impair the quality of any such copies made.

(2) If a person, knowing or having reason to believe that the device concerned will be used to make infringing copies-

- (a) makes, imports, exports, sells or lets for hire or offers or exposes for sale or hire any device specifically designed or adapted to circumvent a form of copy-protection that is employed or incorporated in a work in which copyright exists and which is issued to the public in electronic form; or
- (b) in the course of business, possesses a device referred to in paragraph (a); or
- (c) publishes information intended to enable or assist persons to circumvent a form of copy-protection that is employed or incorporated in a work in which copyright exists and which is issued to the public in electronic form;

he shall be guilty of an offence and liable to a fine not exceeding fifteen thousand Emalangeni or to imprisonment for a period not exceeding three years or to both such fine and such imprisonment.

(3) Whether or not a person who contravenes subsection (2) is prosecuted for an offence under that subsection, the owner of the copyright in the work concerned and the person who issued copies of the work to the public shall have the same rights against him as if-

- (a) he had infringed the copyright in the work; and
- (b) the device concerned were an infringing copy of the work.

(4) It shall be a defence to a prosecution for an offence under subsection (2) or to proceedings brought for infringement under subsection (3) for the accused person or defendant, as the case may be, to prove that his act was reasonably incidental to any use of or dealing with the work concerned which did not amount to an infringement of copyright in the work.

(5) If, in a prosecution for an offence under paragraph (b) of subsection (2) or in proceedings brought for infringement in respect of a contravention of that paragraph, it is proved that the accused person or defendant, as the case may be-

- (a) was found in possession of a device specifically designed or adapted to circumvent a form of copy protection that is employed or incorporated in a work in which copyright exists and which is issued to the public in electronic form; and

- (b) in the course of business sold, let for hire or distributed copies of works such as the work referred to in paragraph (a);

it shall be presumed, unless the contrary is proved, that he possessed the device for the purpose of making infringing copies of the work.

***Removal of rights-management information***

102. (1) In this section-

“rights management information” means any name, mark, code, number or other information which is attached to or incorporated in or appears with a copyright work and which-

- (a) identifies the work, the author of the work or the owner of any right in the work; or
- (b) provides information about the terms and conditions under which the work may be used in terms of any licence.

(2) Any person who, with the intention of infringing copyright in the work concerned—

- (a) removes, erases or alters any rights management information which is attached to or incorporated in or appears with a work; or
- (b) sells or lets for hire or offers or exposes for sale or hire any work from which rights management information has been removed, erased or altered;

shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (E10 000) or to imprisonment for a period not exceeding two (2) years or to both such fine and such imprisonment.

(3) It shall be a defence, in a prosecution for an offence under subsection (2), for the accused person to prove that the removal, erasure or alteration of the rights management information concerned was reasonably incidental to any use of or dealing with the work concerned which did not amount to an infringement of any copyright in the work.

(4) If, in a prosecution for an offence under paragraph (a) of subsection (2), it is proved that the accused person-

- (a) removed, erased or altered any rights management information which was attached to or incorporated in or appeared with any work; and
- (b) used or dealt with the work in a manner which infringed copyright in the work;

it shall be presumed, unless the contrary is proved, that he removed, erased or altered the rights management information with the intention of infringing copyright in the work.

(5) If, in a prosecution for an offence under paragraph (b) of subsection (2), it is proved that the accused person-

- (a) was found in possession of a work from which rights management information was removed, erased or altered; and

- (b) in the course of business sold, let for hire or distributed copies of works such as the work referred to in paragraph (a);

it shall be presumed, unless the contrary is proved, that he possessed the work for the purpose of offering or exposing it for sale or hire.

***Fraudulent reception of transmissions***

103. (1) In this section-

“decoder” means any device, component or arrangement which is designed to circumvent the device or arrangement referred to in paragraph (b) of the definition of “encrypted programme”;

“encrypted programme” means a programme which-

- (a) is included in a broadcasting service or a cable programme service broadcast or transmitted from a place in Swaziland or a designated country; and
- (b) incorporates or employs a device or arrangement of any description which is designed to prevent persons from viewing, listening to or receiving the programme-
  - (i) without paying the fee, however imposed, which the person who broadcasts or transmits the programme charges for viewing, listening to or receiving the programme; or
  - (ii) otherwise without the authority of the person who broadcasts or transmits the programme.

(2) If a person, without the authority of the broadcaster or operator of the cable programme service concerned-

- (a) makes, imports, exports or sells a decoder or lets a decoder for hire or offers or exposes a decoder for sale or hire; or
- (b) in the course of business, possesses a decoder; or
- (c) uses a decoder to view, listen to or receive an encrypted programme; or
- (d) publishes information which is calculated to enable or assist persons to view, listen to or receive encrypted programmes-
  - (i) without paying the fee, however imposed, which the person who broadcasts or transmits the programme charges for viewing, listening to or receiving the programme; or
  - (ii) otherwise without the authority of the person who broadcasts or transmits the programme;

he shall be guilty of an offence and liable to a fine not exceeding ten thousand Emalangeni (E10 000) or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

(3) Whether or not a person who contravenes subsection (2) is prosecuted for an offence under that subsection, the broadcaster or the operator of the cable programme service concerned, as the case may be, shall have the same rights against him as if-

- (a) he had infringed the copyright in the encrypted programme concerned; and
- (b) the decoder were an infringing copy of the encrypted programme.

(4) It shall be a defence to any proceedings brought for an infringement referred to in subsection (1) or to a prosecution for an offence under subsection (2) for the defendant or accused person, as the case may be, to prove that he did not know, and had no reasonable grounds for knowing, that the decoder concerned would be used to circumvent the encryption of any encrypted programme.

***Application of Act to works made and contracts concluded before commencement of Act***

104. (1) Subject to this section, this Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter.

(2) No act done before the commencement of this Act shall constitute-

- (a) an infringement of any copyright or other right conferred by this Act; or
- (b) an offence in terms of this Act.

(3) This Act shall not affect any contract concluded before the commencement of this Act in relation to any work or performance.

(4) The rights conferred by Part VII shall not subsist in any performance that took place before the fixed date.

***Act not to affect certain other rights***

105. Nothing in this Act shall affect-

- (a) any privilege or right of the State or any other person under any other law that is not expressly repealed or modified by this Act; or
- (b) the right of the State or any person deriving title from the State to sell, use or otherwise deal with anything forfeited under any enactment, including this Act; or
- (c) any rule of law relating to confidential or privileged information, unlawful competition or personality rights.

***Regulations***

106. (1) Subject to this section, the Minister may, by regulations provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may-

- (a) designate countries and international organisations for the purposes of any provision of this Act;
- (b) provide for the issue of compulsory licences permitting-
  - (i) the reproduction, publication, performance or circulation, by educational institutions, of any work; or
  - (ii) the translation of any work for the purpose of teaching, scholarship or research or for use in a broadcast for any such purpose:

Provided that the acts authorised by such a licence shall not conflict with a normal exploitation of the work concerned, nor shall any such licence unreasonably prejudice the legitimate interests of the owner of the copyright in the work concerned;

- (c) confer powers on the Copyright Administrator in regard to the settlement of disputes regarding infringement of copyright or the terms and conditions of any licence or any assignment of copyright;
- (d) prescribe fees payable in respect of any notice given to the Commissioner of Customs under section 46, and the reimbursement of the Commissioner of Customs for any expenses incurred in detaining any articles in consequence of any notice or order under that section.
- (e) provide for authorization for use of expressions of folklore;
- (f) the composition and procedure of the Copyright Society; and
- (g) the forms and licences required to be used under this Act.

(3) When making any regulations in terms of subsection (1) the Minister shall have regard to Swaziland's obligations under any international convention, treaty or agreement relating to copyright.

***Repeal of the Copyright Act, 1912 and savings***

107. (1) Subject to subsection (2), the Copyright Act, 1912 is repealed.

(2) Any assignment, licence or scheme which had effect under the Copyright Act 1912, immediately before the date of commencement of this Act shall continue to have the same effect, mutatis mutandis, in terms of the appropriate provisions of this Act.

(3) Any copyright, and any assignment of or licence issued in respect of any copyright, which subsisted immediately before the date of commencement of this Act may be registered in terms of Part V:

Provided that any application for such registration shall be made within one year after the date of commencement of Part V.

**FIRST SCHEDULE**  
(Section 78 (4))

PROVISIONS APPLICABLE TO THE COPYRIGHT AND NEIGHBOURING RIGHTS  
SOCIETY OF SWAZILAND BOARD

ARRANGEMENT OF PARAGRAPHS

***Paragraph***

1. Disqualifications for membership of Board.
2. Terms of office and conditions of service of members of the Board.
3. Vacation of office by appointed member.
4. Filling of vacancies on Board.
5. Chairperson and vice-chairperson of the Board.
6. Meetings and procedure of Board.
7. Staff of Board.

***Disqualifications for membership of Board***

1. (1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as an appointed member of the Board if-

- (a) he is neither a citizen of Swaziland nor ordinarily resident in Swaziland; or
- (b) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country, and has not been rehabilitated or discharged; or
- (c) he has made an assignment to or arrangement or composition with his or her creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or
- (d) within a period of five years immediately preceding his proposed appointment he has been sentenced-
  - (i) in Swaziland, in respect of an offence; or
  - (ii) outside Swaziland, in respect of conduct which, if committed in Swaziland, would have constituted an offence;

to a term of imprisonment of not less than six months imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon; or

- (e) he has been convicted-
  - (i) in Swaziland of an offence involving dishonesty; or

- (ii) outside Swaziland, in respect of any conduct which, if committed in Swaziland, would have constituted an offence involving dishonesty;

and sentenced to a fine of any amount or to a term of imprisonment of any duration, whether or not any part of the sentence has been suspended.

(2) A person who is-

- (a) a member of Parliament; or
- (b) a member of two or more other bodies;

shall not be appointed as a member of the Board nor shall he be qualified to hold office as a member.

***Terms of office and conditions of service of members of Board***

2. (1) An appointed member shall hold office for such period, not exceeding three years, as the Minister may fix at the time of his appointment.

(2) On the expiry of the period for which an appointed member has been appointed he shall continue to hold office until he has been re-appointed or his successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for more than six months.

(3) A person who ceases to be a member of the Board shall be eligible for re-appointment.

(4) Members shall be paid such remuneration or allowances as the Minister may, in consultation with the Minister responsible for Finance, prescribe.

***Vacation of office by appointed members***

3. (1) An appointed member shall vacate his office and his office shall become vacant-

- (a) one month after the date he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period of notice as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment, whether or not any portion has been suspended, imposed without the option of a fine-
  - (i) in Swaziland, in respect of an offence; or
  - (ii) outside Swaziland, in respect of conduct which, if committed in Swaziland, would have constituted an offence; and

(c) if he becomes disqualified in terms of subparagraph (a), (b) or (c) of subparagraph (1) of paragraph 1 or in terms of paragraph 2 of that paragraph; or

(d) if he is mentally or physically incapable of efficiently exercising his functions as a member.

(2) The Minister on the recommendation of the Board, may require an appointed member to vacate his office if the Minister is satisfied that the member has been absent without the consent of the chairman of the Board from three consecutive meetings of the Board, of which he has been given at least seven days' notice, and that there was no just cause for the member's absence.

***Filling of vacancies on Board***

4. Within three months after an appointed member's death or vacation of office, the Minister may appoint a person to fill the vacancy.

***Chairperson and vice-chairperson of Board***

5. (1) The Minister shall designate one of the appointed members as chairperson and another appointed member as vice-chairperson of the Board.

(2) The chairperson and vice-chairperson of the Board may at any time, by written notice to the Minister, resign their offices as such.

(3) The vice-chairperson shall perform the functions of the chairperson whenever the chairperson is unable to perform them or the office of the chairperson is vacant.

***Meetings and procedure of Board***

6. (1) The Board shall hold its first meeting on a date and place fixed by the Minister, and thereafter shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedures as it thinks fit:

Provided that the Board shall meet at least four times in each financial year.

(2) The chairperson of the Board-

(a) may convene a special meeting of the Board at any time; and

(b) shall convene a special meeting of the Board on the written request of the Minister or not fewer than three members, of the Board, which meeting shall be convened for a date not sooner than seven days nor later than thirty days after receipt of such request.

(3) Written notice of a special meeting convened in terms of subparagraph (2) shall be sent to each member of the Board not later than forty-eight hours before the meeting and shall specify the business for which the meeting has been convened.

(4) No business shall be discussed at a special meeting convened in terms of subsection (2) other than-

(a) such business as may be determined by the chairperson of the Board, where he convened the meeting in terms of paragraph (a) of subparagraph (2); or

(b) the business specified in the request for the meeting, where the chairperson of the Board convened the meeting in terms of paragraph (b) of subparagraph (2).

(5) The chairperson of the Board or, in his absence the vice-chairperson, shall preside at meetings of the Board:

Provided that, if the chairperson and vice-chairperson are both absent from any meeting of the Board, the members present may elect one of their number to preside at that meeting as chairperson.

(6) A majority of members shall form a quorum at any meeting of the Board.

(7) All acts, matters or things authorised or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(8) At all meetings of the Board each member present shall have one vote on each question before the Board:

Provided that-

(a) in the event of an equality of votes, the chairperson or person presiding shall have a casting vote in addition to his deliberative vote;

(b) no member shall take part in the consideration or discussion of, or vote on, any question before the Board which relates to his vacation of office as a member.

(9) Any proposal circulated among all members of the Board and agreed to by a majority of them shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.

### ***Staff of Board***

7. (1) The Board shall appoint on such terms and conditions as it thinks fit-

(a) a Director who shall be responsible for-

(i) the efficient management of the activities, funds and properties of the Board;

(ii) general authority over the conduct and discipline of the Board's staff.

(b) such number of inspectors and other officers as it considers necessary to carry out inspections and ensure the enforcement of this Act.

(2) The Board shall ensure that every inspector is provided with a document identifying him as an inspector.

(3) Inspectors and other officers shall exercise their functions under this Act to ensure through monitoring, that-

(a) there is no abuse or infringement of the copyright or neighbouring rights;

- (b) restrictions on importation or exportation of copies of reserved works of folklore are observed; and
- (c) licensing procedure of reserved works of folklore are adhered to; and
- (d) to ensure that copyright fees from users of a work are collected in time.

(4). Subject to this paragraph, an inspector may, for purposes of enforcing this Act, at all reasonable times and without warrant or previous notice-

- (a) enter any land, premise, vessel vehicle or any other place in Swaziland to determine whether the provisions of this Act are being complied with;
- (b) take or remove samples or articles for purposes of test:

Provided that the owner or occupier of any land, premises, vessel, vehicle or other place shall be notified of any samples so taken or removed;

- (c) seize any article or other thing which is believed to have been used in the commission of an offence under this Act;
- (d) require the production of and, inspect, examine or make copies of any licence, records or other documents issued or required to be kept in terms of this Act.

(5). The powers of an inspector under subparagraph (a) of subparagraph (4) shall not be used in respect of any place that is a private dwelling or any part of a place that is designed to be used and is being used as a dwelling place except-

- (a) with the consent of the occupier of the dwelling place; or
- (b) in terms of a warrant issued in terms of section 50 of the Criminal Procedure and Evidence Act, 1938.

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**SECOND SCHEDULE**  
**(Section 78(5))**

PROVISIONS APPLICABLE TO FINANCES RELATING TO THE COPYRIGHT AND  
NEIGHBOURING RIGHTS SOCIETY OF SWAZILAND BOARD

ARRANGEMENT OF PARAGRAPHS

***Paragraph***

1. Funds of the Board.
2. Investment of moneys not immediately required by the Board.
3. Financial year of Board.
4. Books of accounts and audit.

***Funds of the Board***

1. (1) The Board shall establish a general fund where-

- (a) moneys received by the Society shall be deposited;
- (b) payments required to be made by the Society may be effected.

(2) The Board may in the discharge of its functions and in accordance with the terms and conditions upon which its funds may have been obtained or derived, charge to the general fund all remunerations, allowances, salaries, fees, gratuities, working expenses and other charges properly arising.

(3) There shall be seed money which shall be appropriated to the Society by Parliament.

***Investment of moneys not immediately required by Board***

2. Moneys not immediately required by the Board may be invested in such manner as the Board may approve.

***Financial year of Board***

3. The financial year of the Board shall be the period of twelve months ending on the 31st March in each year.

***Books of accounts and audit***

4. (1) The Board shall ensure that-

- (a) proper accounts and other records relating to such accounts are kept in relation to all the financial transactions; and
- (b) in respect of each financial year-
  - (i) a balance sheet; and
  - (ii) a statement of the transactions referred to in paragraph (a);

are prepared without undue delay.

(2) The accounts of the Board shall be audited by the Auditor-General, who shall have all the powers conferred upon him by sections 9 and 10 of the Audit Act, 2005 as though the assets of the Board were public moneys or State property.

## LEGAL NOTICE NO. 36 OF 2018.

THE SWAZILAND ELECTRICITY COMPANY ACT, 2007  
(Act No. 1 of 2007)THE RENEWAL OF TERM OF OFFICE OF BOARD MEMBERS FOR THE  
SWAZILAND ELECTRICITY COMPANY NOTICE, 2018  
(Under Section 5)

In exercise of the powers conferred by Section 5 of The Swaziland Electricity Company Act 2007 read in conjunction with Section 6 of The Public Enterprises (Control and Monitoring) Act, 1989, the Minister for Natural Resources and Energy makes the following Notice-

***Citation and Commencement***

1. This Notice may be cited as The Renewal of Term of Office for Board of Directors of The Swaziland Electricity Company Notice 2018 and shall be deemed to have come into force on the 29<sup>th</sup> January, 2018.

***Renewal of Term of Office of Board Members***

2. The Term of office for the following members of the Board of Directors for The Swaziland Electricity Company is renewed for a period not exceeding two (2) years with effect from the 29<sup>th</sup> January, 2018.

- (a) Mr. Sithofeni Ginindza;
- (b) Ms. Lindiwe Dlamini; and
- (c) Mr. Vusie Dlamini.

**JABULILE MASHWAMA SENATOR**  
*MINISTER FOR NATURAL SOURCES AND ENERGY*

LEGAL NOTICE NO. 37 OF 2018.

THE COMMISSIONS OF ENQUIRY ACT, 1963  
(Act 35 of 1963)

APPOINTMENT OF MEMBERS OF THE SCHOLARSHIP SELECTION  
BOARD (AMENDMENT), NOTICE, 2018  
(Under Section 3 and 5)

In exercise of the powers conferred by Section 3 and 5 of the Commissions of Enquiry Act No. 35 of 1963, the Honourable Minister for Labour and Social Security issues the following notice -

***Citation and Commencement***

1. (1) This notice may be cited as the Appointment of members of the Scholarship Selection Board (Amendment) Notice, 2018.

(2) This Notice shall come into force on the date of publication in the Gazette.

***Amendment of Section 2 of Legal Notice***

2. Section 2 of Legal Notice Number 2 of 20 17 is amended-

(a) In subsection (2) by altering paragraph (h) to read Mr. Mavela V. Shongwe, Member;

(b) By adding a new paragraph after paragraph (h) as follows-

‘(i) Mrs. Lungile Shongwe, Member’;

(c) By adding a new paragraph after paragraph (i) as follows-

‘(k) Mr. Siboniso Tsabedze, Member’;

(d) By adding a new paragraph after paragraph G) as follows-

‘(k) Ms. Hlengiwe Manzini, Secretary (*Ex Officio*)’; and

(e) Re-arranging the paragraphs accordingly.

**WINNIE K. MAGAGULA (SEN)**  
*MINISTER FOR LABOUR AND SOCIAL SECURITY*

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LEGAL NOTICE NO. 38 OF 2018.

THE CIVIL SERVICE ORDER, 1973  
(Order No. 16 of 1973)

THE APPOINTMENT OF ACTING PRINCIPAL SECRETARIES NOTICE, 2018  
(Under Section 8)

In exercise of the powers vested in me by Section 8 of the Civil Service Order, 1973, **I, Mswati III, King of Swaziland**, hereby appoint:

**NOMSA HUTCHINSON**

To act as Auditor General at the Ministry of Finance with effect from **02<sup>nd</sup> August, 2017 - 02<sup>nd</sup> October, 2017**.

**CHIEF CELUMUSA NDWANDWE**

To act as Principal Secretary at Deputy Prime Minister's Office with effect from **11<sup>th</sup> December, 2017 - 29<sup>th</sup> December, 2017**.

**NORMAN GAMEDZE**

To act as Principal Secretary at the Ministry of Foreign Affairs and International Cooperation with effect from **9<sup>th</sup> October, 2017 - 30<sup>th</sup> October, 2017 and 28<sup>th</sup> December, 2017 - 16<sup>th</sup>, January, 2018**.

**V. G. NSIBANDE**

To act as Principal Secretary in the Ministry of Justice and Constitutional Affairs with effect from **11<sup>th</sup> December, 2017 - 15<sup>th</sup> January, 2018**.

**MZWANDILE DLAMINI**

To act as Auditor General in the Ministry of Finance with effect from **01<sup>st</sup> February, 2018 - 1<sup>st</sup> April, 2018**.

**THUS SIGNED UNDER MY HAND AT LOZITHEHLEZI ON THIS 2<sup>nd</sup> DAY OF MARCH, 2018.**

**MSWATI III**  
*KING OF SWAZILAND*

LEGAL NOTICE NO. 39 OF 2018.

THE CIVIL SERVICE ORDER, 1973  
(Order No. 16 of 1973)

THE APPOINTMENT OF ACTING PRINCIPAL SECRETARIES NOTICE, 2018  
(Under Section 8)

In exercise of the powers vested in me by Section 8 of the Civil Service Order, 1973, **I, Mswati III, King of Swaziland**, hereby appoint:

**BHEKITHEMBA V. GAMA**

To act as Principal Secretary in the Ministry of Information Communication and Technology with effect from **3<sup>rd</sup> January, 2018 - 31<sup>st</sup> March 2018**.

**SIBONGILE DLAMINI**

To act as Principal Secretary in the Ministry of Education and Training with effect from **03<sup>rd</sup> January, 2018 - 31<sup>st</sup> March, 2018**.

**LOMAKHOOSI DLAMINI**

To act as Principal Secretary in the Ministry of Housing and Urban Development with effect from **19<sup>th</sup> December, 2017 - 19<sup>th</sup> January, 2018**.

**CEBILE NHLABATSI**

To act as Principal Secretary in the Ministry of Natural Resources & Energy with effect from **27<sup>th</sup> December, 2017 - 19<sup>th</sup> January, 2018**.

**DORCAS N. DLAMINI**

To act as Principal Secretary in the Ministry of National Defence & Security with effect from **24<sup>th</sup> October, 2017 - 12<sup>th</sup> November, 2017**.

**THUS SIGNED UNDER MY HAND AT LOZITHEHLEZI ON THIS 2<sup>nd</sup> DAY OF MARCH, 2018.**

**MSWATI III**  
*KING OF SWAZILAND*

LEGAL NOTICE NO. 40 OF 2018.

THE LOTTERIES CONTROL REGULATIONS, 2016

THE LOTTERIES CONTROL (LEVY) NOTICE, 2018  
(Under Regulation 14)

In exercise of the powers conferred by Regulation 14 of the Lotteries Control Regulations, 2016, the Minister for Tourism and Environmental Affairs issues the following notice -

***Citation and Commencement***

1. (1) This Notice may be cited as the Lotteries Control Levy Notice, 2018.
- (2) This Notice shall come into force on the date of publication in the gazette.

**Imposition of levy on Lottery operations and Gaming Activities**

2. A Lottery operator or promoter of any gaming activities shall pay to Government levy of 14% of gross gaming revenue with effect from 1<sup>st</sup> Aprn12018.
3. Legal Notice No. 42 of 2017 is hereby revoked.

**CHRISTOPHER M. GAMEDZE**  
*MINISTER FOR TOURISM AND ENVIRONMENTAL AFFAIRS*