



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XXX]

MBABANE, Wednesday, October 7th, 1992

[No. 905

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SUPPLEMENT TO
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THE PREVENTION OF CORRUPTION BILL, 1992

(Bill No. 22 of 1992)

(To be Presented by the Prime Minister)

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The object of this Bill is to repeal and replace the Prevention of Corruption Act, 1986. The main features of this Bill are however as follows:

- (a) to provide for the establishment of an Anti-Corruption Commission which will be directly responsible to the Prime Minister and also to provide for the composition, functions and powers of the Commission;
- (b) to provide for the appointment of the personnel of the Commission, including a Commissioner and Deputy Commissioner;
- (c) to provide for immunity of the personnel of the Commission from legal action in respect of acts or omissions done in good faith in the discharge of their duties;
- (d) to make provision against unauthorised disclosure of information by personnel of the Commission and for non-disclosure of privileged documents;
- (e) to make provision for impersonation and obstruction of personnel of the Commission;
- (f) to provide for the submission to Parliament by the Prime Minister of annual reports on the activities of the Commission.
- (g) to make it an offence for any person to offer or promise any advantage to any public officer of a public or private body as an inducement or a reward for discharging or refraining from discharging his lawful duties to the public;
- (h) to make it an offence for any public officer of a public or private body to solicit or accept any advantage as an inducement or reward for discharging or refraining from discharging his lawful duties to the public;
- (i) to make it an offence for any public officer whose standard of living is above that which is commensurate with his known past and present official emoluments and allowances and who is unable to offer satisfactory explanation as to how he has been able to maintain such standard of living;
- (j) to make it an offence for any person of no known source of income or who is not known to be engaged in gainful employment to possess or have in his control any property or pecuniary resources for which he cannot give satisfactory explanation as to how he acquired them;
- (k) to provide for restriction on the disposal of property of any public officer or any other person under investigation for an offence under the Act;
- (l) to make provision enabling the Commissioner to apply for a court order to enable the Commission to investigate the acquisition of property and bank accounts of any person alleged or suspected to have committed an offence under the Act;
- (m) to make provision enabling the Commissioner to apply for a court order to detain the passport or travel document of a person alleged or suspected to have committed an offence under this Act;
- (n) to provide for the protection of informers;

- (o) to provide for the offence of making false report to the Commission of alleged or suspected offences under the Act.

A.F.M. THWALA
Attorney-General

A BILL
entitled

An Act to repeal and replace the Prevention of Corruption Act, 1986 and to provide for matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland.

PART 1 - PRELIMINARY

Short title.

1. This Act may be cited as the Prevention of Corruption Act, 1992.

Interpretation.

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

“advantage” means -

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or part;
- (d) any other service, favour or gratification other than entertainment;
- (e) the exercise or forbearance from the exercise of any right, power or duty; or
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage referred to in paragraph (a), (b), (c), (d) or (e).

“banker's books” means -

- (a) any ledger, ledger card, statement of account, day book, cash book, account book or other book or document whatsoever used in the ordinary business of banking;
- (b) any cheque, voucher, record card, report, letter or other document whatsoever;
- (c) a copy of anything referred to in paragraph (a) or (b) which is used in the ordinary business of a bank;

“company books” means the annual return and balance sheets and any ledger, day book, cash book, account book, bank book, report, letter or other book or document used in the ordinary business of a company;

“Commission” means the Anti-Corruption Commission established under Section 3;

“Commissioner” means the person appointed under Section 4 as the Commissioner of the Commission;

“Court” means the High Court or a Magistrate's Court, as the case may be;

“Deputy Commissioner” means the person appointed under Section 4 as the Deputy Commissioner of the Commission;

“document” includes any register, book, record, tape recording, any form of computer input or output, and any other material, whether produced mechanically, electrically or manually or by any other means;

"entertainment" means the provision of food or drink for consumption on the occasion when it is provided and any other entertainment connected with or provided at the same time as such food or drink;

"investigating officer" means any person authorised by the Commissioner to exercise the powers of an investigating officer under this Act;

"Judicial Officer" means a judge, magistrate, an arbitrator or the presiding officer of a Swazi Court established under the Swazi Court Act, 1950;

"public body" means the Government and includes any Ministry or Department or other establishment of Government, a local authority, public corporation or any authority, Board, Commission or other body established by the Government by or under any law;

"private body" means any person or organisation not being a public body and it also means a voluntary organization, charitable institution, club, company, firm or partnership;

"public corporation" means any body, whether corporate or unincorporate, in which the Government, the Swazi Nation or the Swazi National Treasury, holds shares or any financial or monetary interest and includes a body in which such corporation holds shares or any monetary or financial interest;

"Public office" includes judicial office or any office or position (whether full time or not) held by any person engaged in a public body or private body or any office or position (whether full time or not) in respect of which emoluments or allowances are payable from public funds or from Swazi National Treasury.

"public officer" means the holder of a public office;

"passport" includes a travel document.

PART II ESTABLISHMENT AND FUNCTIONS OF THE ANTI-CORRUPTION COMMISSION

Establishment of the Commission.

3. (1) There is hereby established a Commission to be known as the Anti-Corruption Commission which shall consist of the Commissioner, the Deputy Commissioner and such investigating and other officers of the Commission as may be appointed under Section 8.

(2) The Commission shall be a Government Department under the direct control and supervision of the Prime Minister.

Appointment of Commissioner and Deputy Commissioner.

4. (1) Subject to section 5, the King in consultation with the Prime Minister may appoint the Commissioner of the Commission for a period of five years and on such terms and conditions as he may determine.

(2) Subject to section 5, the Prime Minister may appoint the Deputy Commissioner for a period of three years and on such terms and conditions as he may determine.

(3) The Commissioner and the Deputy Commissioner shall be eligible for re-appointment after the expiration of their respective terms of office.

(4) The Commissioner shall be responsible for the administration of the Commission subject to any specific or general directions of the Prime Minister.

(5) The Commissioner and the Deputy Commissioner shall not be subject to the directions or control of any person other than the Prime Minister.

Qualifications for Office of Commissioner or Deputy Commissioner.

5. No person shall qualify for appointment as Commissioner or Deputy Commissioner unless he is a person of integrity and proven administrative competence and is a member of good standing in the Law Society of Swaziland or the Swaziland Institute of Accountants.

Removal from Office of Commissioner or Deputy Commissioner.

6. (1) The King may in consultation with the Prime Minister remove the Commissioner from office for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

(2) The Prime Minister may remove the Deputy Commissioner from office for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or misbehaviour.

Acting Commissioner.

7. (1) If the office of the Commissioner is vacant or the Commissioner is absent from duty or unable for any other reason to perform the functions of his office, the Deputy Commissioner shall, except when the Prime Minister otherwise directs, act as the Commissioner.

(2) If both the Commissioner and the Deputy Commissioner are absent from duty or unable for any other reason to perform the functions of their office the Prime Minister shall, subject to Section 5, appoint another person to act as the Commissioner.

Officers of the Commission.

8. (1) The Prime Minister may, in consultation with the Commissioner, appoint such investigating and other officers of the Commission as the Prime Minister may deem necessary to assist the Commissioner in the performance of his functions under this Act.

(2) Without prejudice to subsection (1) the Prime Minister may on the advice of the Commissioner cause to be seconded or transferred from the public service to the Commission such officers as he may deem necessary for the efficient discharge of the functions of the Commission.

(3) The terms and conditions of service of officers of the Commission shall be subject to the approval of the Prime Minister who may vary such terms and conditions as he thinks fit.

(4) The Prime Minister may terminate the appointment of any officer of the Commission if on the recommendation of the Commissioner he is satisfied that it is in the best interest of the Commission to terminate such appointment.

Applicability of Laws Governing Public Service.

9. Except as otherwise provided in this Act the Commissioner, Deputy Commissioner and other officers of the Commission shall be subject to such laws and regulations as are generally applicable to officers in the public service.

Functions of the Commission.

10. (1) The functions of the Commission shall be-

- (a) to take necessary measures for the prevention of corruption in public and private bodies including in particular measures for -

- (i) examining the practices and procedures of public and private bodies in order to facilitate the discovery of corrupt practices and secure the revision of their methods of works or procedures which, in the opinion of the Commission, may be prone or conducive to corrupt practices;
- (ii) advising public and private bodies on the ways and means of preventing corrupt practices, and on changes in the methods of work or procedures of such public and private bodies compatible with the effective performance of their duties, which the Commission considers necessary to reduce the likelihood of the occurrence of corrupt practices;
- (iii) disseminating information on the evil and dangerous effects of corrupt practices on the society;
- (iv) enlisting and fostering public support against corrupt practices;
- (b) to receive and investigate complaints of alleged or suspected corrupt practice made against any person, and refer appropriate cases to the Director of Public Prosecutions for prosecution;
- (c) to investigate the conduct of any public officer which in the opinion of the Commissioner, may be connected with or conducive to corrupt practices, and to submit a report of such investigation to the Prime Minister.

(2) Notwithstanding the provisions of subsection (1) the Commissioner shall not investigate or cause to be investigated any alleged or suspected corrupt practice involving the Swazi National Treasury or an Officer thereof unless the Prime Minister after consultation with the King has authorised the Commissioner in writing to carry out or cause to be carried out such investigation.

(3) The Commission may decline to conduct an investigation into any complaint alleging an offence under this Act or to proceed further with an investigation if the Commission is satisfied that -

- (a) the complaint is trivial, frivolous vexatious or not made in good faith, or
- (b) the investigation would be unnecessary, improper or futile.

(4) In every case where the Commission declines to conduct an investigation or to proceed further with an investigation the Commission shall inform the complainant in writing of its decision but shall not be bound to assign reasons therefor.

Powers of the Commission.

11. (1) For the performance of the functions of the Commission under this Act the Commissioner may -

- (a) authorise in writing any officer of the Commission to conduct an inquiry or investigation into alleged or suspected offences under this Act;
- (b) require any public officer or person to answer questions concerning the duties of any other public officer or person and order the production for inspection of any orders, directives or office instructions relating to the duties of such other public officer or person;
- (c) require any person in charge of any Ministry, Department or other establishment of the Government or the head, Chairman, manager or chief executive officer of any public body or private body to produce or furnish within such time as may be specified by the Commissioner, any document or a certified true copy of any document which is in his possession or under his control and which the Commissioner considers necessary for the conduct of investigation into alleged or suspected offences under this Act.

(2) In the performance of his duties under this Act, the commissioner, the Deputy Commissioner, the Deputy Commissioner or if acting under the authority of a warrant issued for that purpose by or on behalf of the Commissioner, an officer of the Commission shall have—

- (a) access to all books, records, returns, reports and other documents relating to the functions of any Government Ministry, Department or other establishment, public body or private body;
- (b) access at any time to the premises of any Government Ministry, Department or other establishment, public body or private body, or to any vessel, boat, aircraft or any vehicle whatsoever, and may search such premises, vessel, boat, aircraft or vehicle if he has reason to suspect that any property acquired in contravention of this Act has been placed, deposited or concealed therein.

(3) In the exercise of his powers of access and search under Subsection (2) (b), the Commissioner, Deputy Commissioner or an officer of the Commission may use such reasonable force as is necessary in the circumstances, and may be accompanied or assisted by such other person he deems necessary to assist him to enter into or upon any premises or upon any vessel, boat, aircraft or vehicle as the case may be.

(4) Any person who accompanies or assists the Commissioner, the Deputy Commissioner or an officer of the Commission to enter into or upon any premises or upon any vessel, boat, aircraft or any vehicle, as the case may be, shall during the period that he accompanies or assists him enjoy the same immunity as is conferred upon the Commissioner, Deputy Commissioner or an officer of the Commission under Section 16.

Special Powers of Investigation.

12. (1) Where it appears to the Commissioner that an offence under this Act may have been committed by any person, the Commissioner may for the purposes of an investigation of such offence apply to the court for an order authorising an investigating officer to exercise the following powers -

- (a) to investigate the acquisition of any property (whether movable or immovable) in or outside Swaziland by or on behalf of such person, during such period as may be specified in the order;
- (b) to require such person to furnish and produce all relevant information and documents in respect of -
 - (i) all expenditure incurred by him in respect of himself, spouse, children and parents;
 - (ii) all liabilities incurred by him, his agent or trustee and specifying in respect of each such liability whether it was incurred jointly (and, if so, with whom) or severally;
 - (iii) any money acquired or sent outside Swaziland during such period as may be specified in order;
- (c) to investigate and inspect any bank account or other account of whatever description or kind and any banker's books or company books of, or relating to, the person named or otherwise identified in the order;
- (d) to require from any person production of any accounts, books or documents of, or relating to, the person named or otherwise identified in the order and the disclosure of all or any information relating to such accounts, books or documents;

- (e) to take copies of such accounts, books or documents or of any relevant entry therein.

(2) Any person who, having been lawfully required under subsection (1) to disclose any information or to produce any accounts, books or documents to an investigating officer shall, notwithstanding any other law to the contrary, comply with such requirement.

- (3) Any person who -

- (a) without reasonable excuse fails or neglects to disclose any information or to produce any accounts, books or documents required by an investigating officer under subsection (2); or
- (b) obstructs an investigating officer in the execution of an order made under subsection (1);

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

Identity Card.

13. The Commissioner shall issue to an officer of the Commission an identity card which shall be *prima facie* evidence of the officer's appointment as such.

Impersonation and Procurement of Commission's Officers.

- 14. Any person who falsely pretends that -

- (a) he is an officer of the Commission or has any of the powers of such officer under this Act, or under any authorisation or warrant issued under this Act; or
- (b) he is able to procure an officer of the Commission to do or refrain from doing anything in connection with the duties of such officer;

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

Resisting or Obstructing the Commissioner, Deputy Commissioner, etc.

- 15. Any person who -

- (a) assaults, resists or obstructs the Commissioner, Deputy Commissioner or an officer of the Commission in the execution of his duties; or
- (b) unlawfully hinders or delays the Commissioner, Deputy Commissioner or an officer of the Commission in effecting entry into or upon any premises, vessel, boat, aircraft or vehicle;

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

Immunity of Commissioner, Deputy Commissioner and other officers.

16. No action or other proceeding shall be brought against the Commissioner, Deputy Commissioner or an officer of the Commission in the respect of any act or thing done or omitted to be done in good faith in the performance of his functions under this Act.

Unauthorised Disclosure or Use of Information.

17. (1) The Commissioner, Deputy Commissioner or an officer of the Commission shall not without the written permission of the Prime Minister, publish or disclose to any person, otherwise than in the exercise of his functions under this Act, the contents of any document or any information which has come to his knowledge in the course of his duties or investigation of any alleged or suspected offence under this Act.

(2) Any person who knowingly acts in contravention of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

(3) If any person in possession of the contents of any document or any information which he has reason to believe has been prohibited or disclosed in contravention of subsection (1) publishes or discloses to another person, otherwise than for the purpose of any prosecution or legal proceedings under this Act, the contents of such document or such information he shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

Privilege from Disclosure in Legal Proceedings.

18. In any legal proceeding the production of the report or record of proceedings of any inquiry or investigation carried out by the Commission into any alleged or suspected offence under Part III shall be privileged if the Prime Minister certifies that the production of such report or record is not in the public interest.

Annual Reports.

19. (1) The Commissioner shall, not later than three months after the end of each year, submit to the Prime Minister a report on the activities of the Commission during that year.

(2) The Prime Minister shall, within thirty days after he has received the report during the sitting of Parliament, cause it to be laid before Parliament and if Parliament is not sitting, within fourteen days of the next sitting of Parliament.

PART III — OFFENCES

Bribery.

20. (1) Any person who, whether in Swaziland or elsewhere offers or promises any advantage to any public officer as an inducement to or a reward for or otherwise on account of that public officer -

- (a) performing or forbearing to perform or having performed or forborne to perform any Act in his capacity as such public officer;
- (b) expediting, delaying, hindering or preventing or having expedited, delayed, hindered or prevented, the performance of any Act, whether by that officer or by another public officer in his or that other officer's capacity as such public officer; or
- (c) assisting, favouring, hindering or delaying or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public or private body;

shall be guilty of an offence.

(2) Any public officer who, whether in Swaziland or elsewhere, solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of the public officer -

- (a) performing or forbearing to perform or having performed or forborne to perform any act in his capacity as such public officer;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of any act, whether by himself or by another public officer in his or that other officer's capacity as such public officer; or
- (c) assisting, favouring, hindering or delaying or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public or private body;

shall be guilty of an offence.

Bribery for Giving Assistance etc. with Regard to Contracts and Tenders.

21. (1) Any person who, whether in Swaziland or elsewhere, offers or promises any advantage to any public officer as an inducement to or a reward for or otherwise on account of the public officer giving assistance or using influence in, or having given assistance or used influence in -

- (a) the promotion, execution or procuring of -
 - (i) any contract or tender for any contract with a public or private body for the performance of any work or the provision of any service or the supply of any goods; or
 - (ii) any subcontract or tender for a subcontract to perform any work, provide any service or supply any goods required to be performed, provided or supplied under any contract with a public or private body; or
- (b) the payment of the price or other consideration or money stipulated or otherwise provided in any such contract, subcontract or tender;

shall be guilty of an offence.

(2) Any public officer who solicits or accepts any advantage as an inducement to or a reward for or otherwise on account of his giving assistance or using influence in or having given assistance or used influence in -

- (a) the promotion, execution or procuring of; or
- (b) the payment of the price or other consideration or moneys stipulated or otherwise provided in;

any such contract, subcontract or tender referred to in subsection (1) shall be guilty of an offence.

Corrupt Transaction by or with public or Private bodies.

22. Any person who by himself or on behalf of or in conjunction with any other person (whether in Swaziland or elsewhere) -

- (a) solicits or accepts from another person either for himself or for any other person any advantage as an inducement or a reward for, or on account of such person, doing or forbearing to do or having done or foreborne to do anything in relation to any matter or transaction with which any public or private body is or may be concerned;
- (b) offers or promises any advantage to another person either for the benefit of that person or any other person as an inducement or a reward for or on account of such person doing or forbearing to do or having done or foreborne to do anything in relation to any matter or transaction with which any public or private body is or may be concerned;

shall be guilty of an offence.

Penalties.

23. Any person who is guilty of an offence under section 20, 21 or 22 shall be liable on conviction to fine not exceeding ten thousand Emlangeni or imprisonment not exceeding five years or both.

Additional Penalty.

24. (1) When a person is convicted of an offence under this Part the court shall in addition to any penalty it may impose under section 23 or 25 order the person convicted to pay to the rightful owner the amount or value, as determined by the court, of any advantage actually received by him.

(2) If after reasonable inquiry, the rightful owner cannot be ascertained or traced or is himself implicated in the commission of the particular offence under this Part the court shall order that the amount or value of such advantage shall be forfeited to the Government.

Bribery of Judicial Officers.

25. (1) Any judicial officer who directly or indirectly solicits any advantage, knowing or having reason to suspect that it has been made in order to influence the result of any case tried or being tried by him shall be guilty of an offence and liable on conviction to imprisonment not exceeding ten years.

(2) Any person who directly or indirectly offers any advantage to a judicial officer with the object of influencing the result of any case tried or being tried by that judicial officer shall be guilty of an offence and liable on conviction to a fine not exceeding twenty thousand Emalangeni or to imprisonment not exceeding ten years or to both.

Possession without reasonable explanation of property, etc.

26. (1) Any person who being or having been a public officer -

- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments;

shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such standard of living or how such pecuniary resources or property came under his control, be presumed to have maintained such standard of living or acquired such pecuniary resources or property as the result of the commission of an offence under section 20, 21, 22 or 25 of this Part, and shall be guilty of that offence and liable on conviction to the penalty prescribed in relation to that offence under section 23, 24 or 25 as the case may be.

(2) When the Commissioner has reasonable grounds to suspect that any person who has no known source of income or who is not known to be engaged in any gainful employment possesses or is in control of any property or pecuniary resources the Commissioner shall request such person to give satisfactory explanation in writing as to how the property or pecuniary resources have been acquired by him or come under his control, and if such person is unable to give any satisfactory explanation he shall be guilty of an offence and liable on conviction to the penalty prescribed in section 23.

(3) Where a court is satisfied in the proceedings for an offence under subsection (1) (b) or subsection (2) that, having regard to his relationship to the accused and to other circumstances, there is reason to believe that a person was holding such pecuniary resources or property in trust for or otherwise on behalf of the accused, such resources or property shall, unless the contrary is proved, be presumed to have been in the control of the accused, or to have been acquired by the accused.

(4) In this section, "official emoluments" includes a pension or gratuity or any other retirement benefit payable under any law for the time being in force or under any terms and conditions of service or employment applicable to the public officer.

Dismissal on conviction.

27. The conviction of a judicial officer or other public officer for an offence under this Part, shall, subject to any other law, warrant his dismissal from office.

Attempting, inciting etc. commission of offences.

28. Any person who attempts, incites or procures or attempts to incite or procure, the commission of an offence under this Part shall be dealt with and punished in like manner as if he has been convicted of that offence.

Giver and receiver of bribe to be guilty notwithstanding that purpose is not carried out.

29. (1) If, in any proceedings for an offence under any section of this Part, it is proved that the accused accepted any advantage, believing or suspecting or having grounds to believe or suspect that the advantage was given as an inducement to or a reward for or otherwise on account of the accused doing or forbearing to do or having done or foreborne to do, any act referred to in that section, it shall be no defence that -

- (a) The accused did not actually have the power, right or opportunity to do or forebear to do any such act;
- (b) the accused accepted the advantage without intending to do or forebear to do any such act;
- (c) the accused did not in fact do or forebear to do any such act.

(2) If, in any proceedings for an offence under any section of this Part, it is proved that the accused offered any advantage to another person as an inducement to or a reward for or otherwise on account of that other person doing or forbearing to do, or having done or foreborne to do any act referred to in that section, believing or suspecting or having reason to believe or suspect that such other person had the power, right or opportunity to do or forebear to do any such act, it shall be no defence that such other person had no such power, right or opportunity.

PART IV — MISCELLANEOUS

Restriction on Disposal of Property.

30. (1) When an order has been made under section 12 the court shall direct that the person named or otherwise identified in the order shall not dispose of or otherwise deal with any property specified in the order without the authority of the court.

(2) A direction given under subsection (1) shall, unless it otherwise provides, apply to the income from any property specified in the order as it applies to the property itself.

(3) Any person who disposes of or otherwise deals with any property specified in a direction given under subsection (1) other than in accordance with the authority of the court shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment not exceeding two years or both.

Surrender of Passport.

31. (1) A Magistrate's Court may, on application by the Commissioner, order a person who is the subject of an investigation in respect of an offence alleged or suspected to have been committed by such person under this Act to surrender to the Commissioner any passport in his possession.

(2) Subject to section 32, a passport surrendered to the Commissioner may be detained for one month or for such further period as the court may determine, if on application by the Commissioner, the magistrate is satisfied that the investigation could not reasonably have been completed before expiration of the one month.

(3) An application under subsection (2) shall not be heard by a magistrate unless reasonable notice of the application has been given by the Commissioner to the person who surrendered the passport.

(4) All proceedings before a magistrate under this section shall be conducted in Chambers.

Return of Passport

32. (1) A person who has surrendered a passport under section 31 (1) may at any time apply to the Magistrate's Court for its return and the application shall contain a statement of the grounds on which it is made.

(2) Notice of an application under subsection (1) shall be given by the applicant to the Commissioner.

(3) The magistrate may -

- (a) grant the application either without conditions or subject to such conditions as to the further surrender of the passport and the appearance of the applicant at any place and time as the magistrate may specify; or
- (b) refuse the application.

(4) Without prejudice to subsection (3), the Magistrate may, before granting an application under subsection (1), require that -

- (a) the applicant enters into a recognisance, with such sureties, if any, as he may require; or
- (b) the applicant deposits such sum of money and enters into such recognisance as he may require.

(5) Where an application is granted under subsection (3) subject to conditions or is refused, the applicant if aggrieved may within fourteen days appeal to the High Court against the conditions or refusal, stating the grounds therefor, but the lodging of that appeal shall not of itself affect that operation of any such conditions.

(6) If after considering the grounds of appeal the High Court is satisfied that the detention of the passport will, having regard to all the circumstances, including the interests of the investigation, cause unreasonable hardship to the applicant, order that the passport be returned to the applicant either without conditions or upon such conditions as to the further surrender of the passport and the appearance of the applicant at such time and place as may be specified in the order.

(7) Proceedings under this section shall be conducted in Chambers.

Bail from Persons About to Leave Swaziland After Commencement of Investigation.

33. (1) If, in the course of an investigation of an offence alleged or suspected to have been committed by any person under this Act, it appears to the Commissioner that such person is about to leave Swaziland, the Commissioner may apply to the court for a warrant for the apprehension of that person and his production before the court.

(2) Where on any such application the court is satisfied upon oath that there is reasonable cause to believe that the person whose apprehension is being sought is about to leave Swaziland and that in all the circumstances, the investigation could not reasonably have been completed before the date of that application, the court may issue a warrant to apprehend such person and cause him to be brought before the court as soon after his apprehension as is practicable to be dealt with according to subsection (3).

(3) On the production before the court of any person apprehended in execution of warrant issued under subsection (2), the court shall, unless the person apprehended can satisfy the court that he is not about to leave Swaziland and that he has no intention of leaving Swaziland offer to admit him to bail on his giving in cash:

- (a) a deposit of E500 if the amount or the value of the advantage in respect of which the offence is committed is E2,000; or
- (b) a deposit equivalent to one half the amount or the value of the advantage if the amount or value of the advantage in respect of which the offence is committed is E2,000 or more.

Provided that if the amount or value of the advantage involved is E2,000 or more the court shall not admit such person to bail on recognisance.

(4) In deciding the day on which a person admitted to bail under subsection (3) is to appear, the court shall have regard to the time reasonably necessary for completion of the investigation of the offence alleged or suspected to have been committed by such person and to any special hardship to such person likely to result from his being on bail.

(5) All proceedings under this section shall be conducted in Chambers.

Evidence of Pecuniary Resources or Property.

34. (1) In any proceedings against a person for an offence under Part III the fact -
- (a) that the accused who at the date of or at any time after the date of the alleged offence is, in possession of pecuniary resources or property disproportionate to his known sources of income for which he cannot satisfactorily account; or
 - (b) that he had at the date of or at any time after the date of the alleged offence, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account;

may be proved and may be taken by the court -

- (i) as corroborating the evidence of any witness in such proceedings that the accused accepted or solicited any advantage; and
- (ii) as showing that such advantage was accepted or solicited as an inducement or reward.

(2) For the purposes of subsection (1) a person accused of an offence under Part III shall be presumed to be in possession of pecuniary resources or property or to have obtained an accretion to such resources or property where such resources or property are held or such accretion is obtained by another person whom having regard to his relationship to the accused or to any other circumstances, there is reason to believe held such resources or property or obtained such accretion in trust for or otherwise on behalf of the accused or as a gift from the accused.

Certificates as to Official Emoluments, etc.

35. In any proceedings against a public officer for an offence under this Act, a certificate purporting -

- (a) to certify -
 - (i) the rate of, and the total amount of, official emoluments and allowances of the public officer;
 - (ii) that the public officer was or was not serving at any specified time or any specified period as a public officer; or
 - (iii) that a public officer held or did not hold any specified office; and

- (b) to be signed by the authorised or appropriate officer of the relevant public or private body;

shall be admitted in evidence in such proceedings by the court on its production without further proof.

Protection of Informers.

36. (1) In any trial in respect of an offence under Part 111 of this Act a witness shall not be obliged to disclose the name or address of any informer or state any matter which might lead to the discovery of such informer.

(2) Where in any document which is in evidence or liable to inspection in any civil or criminal proceeding under this Act contains any entry of record in which an informer is named or described or which might lead to the discovery of such informer, the court shall cause such entry or record to be concealed from view or to be obliterated in such a manner as in the opinion of the court may not disclose the identity of the informer.

(3) Where the court is of the opinion that an informer wilfully made in his complaint to the Commission a material statement which he knew or believed to be false or did not believe to be true, or that justice cannot be fully done between the parties without the discovery of the informer, the court may require full disclosure of the identity of the informer.

False Reports to the Commission.

37. Any person who, during the course of an investigation into an offence alleged or suspected to have committed under this Act, knowingly -

- (a) makes or caused to be made a false report to the Commission of the commission of an offence;

- (b) misleads the Commission or any investigating officer,

shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand Emalangeni or imprisonment not exceeding one year or both.

Consent of Director of Public Prosecutions Required for prosecuting Offences under Part 111.

38. No prosecution for an offence under Part 111 of this Act shall be instituted except with the consent of the Director of Public Prosecutions.

Regulations.

39. The Prime Minister may make regulations in respect of any matter necessary to be prescribed to give effect to this Act.

Repeal.

40. Part IV of the Crimes Act, 1889 and the Prevention of Corruption Act, 1986 are repealed.