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## THE IDENTIFICATION BILL, 1998

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(Bill No. 10 of 1998)

(To be presented by the Minister for Justice and Constitutional Affairs)

### MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for compilation and maintenance of a population register in respect of the population of Swaziland; for the issuance of identity documents to persons whose names are included in the population register; and for matters incidental thereto.

M. DWAMENA  
*Acting Attorney General*

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### A BILL entitled

AN ACT to provide for the compilation and maintenance of a population register and the issuance of identity documents.

ENACTED by the King and the Parliament of Swaziland.

#### *Arrangement of Sections.*

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#### *Short title and commencement.*

1. This Act may be cited as the Identification Act, 1998, and shall come into operation on such date as the Minister may by notice published in the Gazette, determine.

*Interpretation.*

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

“fingerprints” include palmprints;

“identity document” means an identity document issued under section 7;

“Minister” means Minister for Justice and Constitutional Affairs;

“population register” means the population register referred to in section 3;

“Prescribed” means prescribed by regulation;

“Registrar” means the Registrar General or any other officer delegated by him to perform any duty under this Act;

“temporary identity document” means a document issued in terms of section 8;

*Compilation and maintenance of population register.*

3. (1) The Registrar shall, in the prescribed manner compile and maintain a population register of all persons who are lawfully resident in Swaziland.

(2) The particulars required for the compilation and maintenance of the population register shall be obtained by the Registrar from documents that may be available to him.

*Particulars of persons which shall be included in population register.*

4. (1) There shall, in respect of every person whose name is included in the population register, be entered the following particulars of that person -

(a) his birth entry number referred to in section 5(3);

(b) the required particulars to be furnished when notice of birth is given;

(c) if he has attained the age of 16 years, his ordinary place of residence and his postal address;

(d) if he is a citizen of Swaziland but is not such a citizen by birth, the date of his naturalisation or registration as such a citizen, and if he is not a citizen or was not born in Swaziland, the date of his entry into Swaziland, and the country of which he is a citizen and the date of his entry into Swaziland;

(e) his occupation, profession, trade or employment;

(f) date of registration;

(g) a recent photograph, if he has attained the age of 16 years;

(h) in the case of a non citizen, particulars concerning his passport and resident permit;

(i) particulars of his driver's licences issued or valid under or by virtue of a law in force in Swaziland;

(j) after his death, the required particulars furnished when notice of his death was given, and on permanent departure from Swaziland, the date of such departure, and particulars concerning the cancellation in the prescribed manner of his identity document; and

(k) such other particulars as may be determined by the Minister by notice in the Gazette.

*Assignment of identity and birth entry numbers.*

5. (1) The Registrar shall assign an identity number and a birth entry number to every person whose name is included in the population register.

(2) An identity number shall be compiled in the prescribed manner out of figures and shall, in addition to a serial, index and control number, consist in figure codes, the following particulars, of the person to whom it has been assigned, namely -

- (a) his sex and date of birth; and
- (b) the fact whether or not he is a Swaziland citizen.

(3) A birth entry number shall be compiled in the prescribed manner out of figures and shall consist of the same numbers and figure codes as those of an identity number.

*Certificates of particulars of birth.*

6. (1) The Registrar shall after inclusion in the population register of the name of a person referred to in section 3 (1) who has not attained the age of 16 years, issue a certificate of particulars of birth to such person.

(2) A certificate of particulars of birth shall contain the following particulars;

- (a) the birth entry number referred to in section 5 (3) and the date of issue of the certificate of particulars of birth;
- (b) the full name, date of birth, place or country of birth; and
- (c) citizenship status of the person concerned.

*Identity documents.*

7. (1) (a) The Registrar shall on receipt of an application in the prescribed manner for an identity document by a person referred to in section 3 (1) who has attained the age of 16 years, and after the person concerned has complied with the provisions of section 9, issue an identity document in the prescribed manner to such person.

(b) The application referred to in paragraph (a) shall be made within such period as may be prescribed in respect of a specified person or category of persons.

(2) An identity document may contain only the following particulars in relation to the person to whom it was issued.

- (a) his identity number referred to in section 5 (2) and the date of issue of the identity document;
- (b) his full name, sex and date of birth, and the place where such person was born;
- (c) whether or not he is a citizen of Swaziland;
- (d) a recent photograph of himself; and
- (e) his fingerprints.

*Temporary identity document.*

8. When a person has applied for an identity document, or has for official purposes lodged his identity document with the Registrar, the Registrar may on application issue to the person concerned whose particulars are included in the population register in terms of section 4, a temporary identity certificate in the prescribed manner, which, for the period and on the conditions mentioned therein, shall for the purposes of this Act be regarded as his identity document.

*Photographs.*

9. Every person referred to in section 3 (1) who has attained the age of 16 years shall furnish two prescribed copies of a recent photograph of himself to the Registrar when -

- (a) he applies for an identity document in terms of section 7; or
- (b) his identity document is required to be replaced by an improved one in terms of section 13.

*Fingerprints.*

10. Every person referred to in section 3 (1) who has attained the age of 16 years shall, when he applies for an identity document, have his fingerprints taken so that they may be included in the population register.

*Change of place of residence or postal address.*

11. Every person whose name is included in the population register shall, if he has attained the age of 16 years and an identity document has thereafter been issued to him, after any permanent change of his place of residence or his postal address, notify the Registrar within the prescribed time and in the prescribed manner of that change of residence or postal address.

*Verification of particulars.*

12. The Registrar may -

- (a) request any person to furnish him with proof of the correctness of any particulars which have been furnished in respect of such person in any document in terms of this Act; and
- (b) investigate or cause to be investigated any matter in respect of which particulars are required to be recorded in the population register.

*Correction, cancellation and replacement.*

13. (1) If -

- (a) an identity document does not reflect correctly the particulars of the person to whom it was issued, or contains a photograph which is no longer a recognisable image of that person; or
- (b) a temporary identity certificate or a certificate of particulars of birth does not reflect correctly the particulars of the person to whom it was issued,

the person concerned or the guardian of the person to whom the certificate of particulars of birth was issued, as the case may be, shall within the prescribed period hand over or send by registered post the identity document, temporary identity certificate or certificate of particulars of birth, as the case may be, to the Registrar.

(2) If the identity document, temporary identity document or certificate of particulars of birth referred to in subsection (1) is not handed over or sent, the Registrar General may obtain restoration thereof or seize it.

(3) If by virtue of this section the Registrar has obtained possession of an identity document temporary identity document or a certificate of particulars of birth, he shall effect the necessary corrections or in the prescribed manner cancel it and replace it with a correct identity document, temporary identity document or certificate of particulars of birth, as the case may be.

(4) When it comes to the attention of the Registrar General that an identity document has been issued to a person whose name is not required in terms of section 3 to be included in the population register, the Registrar General shall request that person to return the identity document to him for cancellation.

*Surrender or seizure of identity documents of deceased persons.*

14. (1) Any person who has in his possession an identity document, temporary identity document or certificate of particulars of birth document, being or purporting to be an uncanceled identity document of a person who has died, shall within thirty days after the death of the holder thereof, hand over or send by registered post such document for cancellation to the Registrar.

(2) A document handed over or sent to the Registrar in terms of subsection (1), shall without delay after the receipt thereof be cancelled in the prescribed manner.

(3) If the person referred to in paragraph (1) above fails to comply, the Registrar shall seize the document.

*Secrecy.*

15. (1) Subject to subsection (2), every person appointed under, or employed in carrying out the provisions of, this Act shall preserve and aid in the preservation of secrecy with regard to all information or documents which may come to the person's knowledge in connection with the performance of duties under this Act, and shall not communicate any such information or the contents of such documents to any other person except in the performance of the person's duties under this Act or by order of a competent Court, and no person who came into possession of any such information which to his knowledge has been communicated to him in contravention of the provisions of this section, shall publish the information or communicate it to any other person.

(2) Subsection (1) does not prohibit the disclosure of information or documents to -

- (a) the Minister or any other person where the disclosure is necessary for the purposes of this Act; or
- (b) any person who has applied in writing specifying in detail the purposes for which the information is required and the Registrar is satisfied that the furnishing of that information is in the interest of the person whose name is included in the population register, or is in the public interest.

*Offences and penalties.*

16. (1) It shall be an offence for a person -

- (a) to make or cause to be made a false statement;
- (b) having come into possession of an identity document, a certificate of particulars of birth or temporary identity document belonging to another person, represent it as his own or belonging to any person other than the person to whom it belongs or fail to hand it over or send it to the Registrar;
- (c) to imitate, alter, deface, destroy or mutilate any identity document, certificate of particulars of birth or temporary identity document or cause it to be done or allow it to be done;
- (d) to possess any identity document, a certificate of particulars of birth or temporary identity certificate which has been imitated, altered, defaced or mutilated or any particulars of which are incorrect;
- (e) to allow an identity document, a certificate of particulars of birth or a temporary identity document belonging to him or which is under his control, to come into the possession of any other person for an unlawful purpose;
- (f) to give out that any incorrect particulars in an identity document, a certificate of particulars of birth or a temporary identity document are correct;
- (g) employed for the purposes of this Act, publishes or communicates to any person otherwise than in the ordinary course of duties, any information or document acquired by him in the performance of his duties under this Act;
- (h) having in possession of any information or document which to his knowledge has been disclosed in contravention of this act, publishes or communicates that information to any other person;
- (i) without lawful cause fails or refuses to comply with a request in terms of section 12 (a) or 13 (4); or
- (j) without lawful cause fails or refuses to comply with a provision of section 7 (1) (b); 10; 11; 13 (1) or 14 (1);

A person who commits an offence against this section is liable to a fine not exceeding E10 000 or imprisonment for a period not exceeding 12 months.

(2) A court convicting any person of an offence referred to in subsection 1 (b), (c) or (d) shall -

- (a) declare the document or certificate in respect of which the offence was committed to be forfeited to the State; and
- (b) declare any instrument use for the purpose of or in connection with the commission of the offence, or the convicted person's rights thereto to be forfeited to the State:

*Reproduction of documents.*

17. (1) Notwithstanding anything to the contrary contained in any other law, the Registrar may reproduce or cause to be reproduced any document from which the population register is compiled or maintained by means of any process which in his opinion accurately and durably reproduces such document, and may preserve or cause to be preserved that reproduction in lieu of such document.

(2) A reproduction referred to in subsection (1) shall, notwithstanding anything to the contrary contained in any other law, for all purposes be deemed to be the original document from which it was reproduced, and a copy of such reproduction certificate to be a true copy of the original by the Registrar shall in any court of law be conclusive proof of the contents of the original document.

*Regulations.*

18. (1) The Minister may make regulations as to -

- (a) the issue of duplicate identity documents, certificates of particulars of birth and temporary identity documents, the circumstances under, and the conditions subject to, which they may be issued and the fees payable therefor;
- (b) the issue of certificates in respect of particulars contained in the population register or in an identity document, the purposes for which such certificates may be used and evidential value thereof;
- (c) the purposes for which such identity documents, temporary identity documents and certificates of particulars of birth may be used;
- (d) the making of special arrangements in connection with the inclusion of the names of persons in the population register in exceptional circumstances;
- (e) the issuing of instructions and the prescribing of forms by the Registrar which may be necessary for the effective carrying out of the provisions of this Act,

and, in general, as to all matters which, in terms of this Act, are required or permitted to be prescribed or which he deems necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(2) Any regulations made under subsection (1) may prescribe penalties for any contravention or failure to comply therewith.