



SWAZILAND GOVERNMENT GAZETTE

VOL. XXXVIII]

MBABANE, Friday, August 6th., 1999

[No. 498

CONTENTS

No.		Page
	ADVERTISEMENTS	598
<hr/>		
	CONTENTS OF SUPPLEMENT	
	PART A - BILLS	
6.	The Public Health Bill, 1999	S1
	PART C - LEGAL NOTICES	
88.	Appointment of Acting Principal Secretaries	S99

NOTICE

Notice is hereby given that I, Petros Melashwa Ndlovu of Manzini Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Mdlovu after the fourth publication of this notice in each of the four consecutive weeks in the Observer and Times of Swaziland newspapers, being two 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 is because Mdlovu is my natural surname.

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

P. O. Box 67
Malkerns

A1096 4x06-08-99

NOTICE

Notice is hereby given that I, Vusumuzi Shongwe of Hhohho Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Gama after the fourth publication of this notice in each of the four consecutive weeks in the Observer and Times of Swaziland newspapers, being two newspapers circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Northern Hhohho Region and in the Government Gazette.

The reason I want to assume the surname is because Gama is my natural surname.

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

P. O. Box A27
Mayiwane
Pigg's Peak

A1169 4x20-08-99

NOTICE

Notice is hereby given that I, Comfort Manyolo Ndzabandzaba of Lubombo Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Fakudze after the fourth publication of this notice in each of the four consecutive weeks in the Observer and Times of Swaziland newspapers, being two newspapers circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Lubombo Region and in the Government Gazette.

The reason I want to assume the surname is because Fakudze is my natural surname.

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

P. O. Box 158
Siteki

A1202 4x27-08-99

NOTICE

Notice is hereby given that I, Muhle Thandabahle Ndwandwe of Lubombo Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Mdlovu after the fourth publication of this notice in each of the four consecutive weeks in the Observer and Times of Swaziland newspapers, being two newspapers circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Lubombo Region and in the Government Gazette.

The reason I want to assume the surname is because Mdlovu is my natural surname.

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

P. O. Box 4140
Manzini

A1209 4x27-08-99

NOTICE

Notice is hereby given that we intend applying for a certified copy of: Deed of Transfer No. 66/ 1990 dated the 14th February 1990 in favour of **EDWIN MADODA NHLEKO** (born on the 21st June 1952) in respect of :

CERTAIN : Lot No. 25 situate in Township of Fairview, District of Manzini, Swaziland;
MEASURING : 1243 (One Two Four Three) square metres;

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

DATED AT MBABANE THIS 20TH DAY OF JULY 1999.

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

A1163 2x06-08-99

NOTICE

ESTATE LATE: DUMSILE REJOICE DLAMINI ESTATE NO. EM156/99

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

ATTILIO MFANUZILE DLAMINI
P. O. Box 1066
Manzini

A1186 06-08-99

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2509/95

In the matter between :

SWAZILAND DEVELOPMENT AND SAVINGS BANK

Plaintiff

and

MTHEMBISA INTERNATIONAL ENTERPRISES LTD

Defendant

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 Lubombo outside the Siteki Magistrates Court Building, District of Lubombo at 2.30 p.m. on Friday the 10th September 1999.

FARM NO. 1

CERTAIN : Remaining extent of Portion 1 of Farm No. 69, Lubombo District, Swaziland;

MEASURING : 862,4492 (Eight Six Two Comma Four Four Nine Two) Hectares;

FARM NO. 2

CERTAIN : Portion 52 (a portion of Portion 30) of Farm No. 161, Lubombo District, Swaziland;

MEASURING : 90,6512 (Nine Zero Comma Six Five One Two) Hectares;

FARM NO. 3

CERTAIN : Portion 54 (a portion of Portion 30) of Farm No. 161, Lubombo District, Swaziland;

MEASURING : 90,6512 (Nine Zero Comma Six Five One Two) Hectares;

FARM NO. 4

CERTAIN : Portion 55 (a portion of Portion 30) of Farm No. 161, Lubombo District, Swaziland;

MEASURING : 90,6463 (Nine Zero Comma Six Four Six Three) Hectares;

FARM NO. 5

CERTAIN : Portion 73 (a portion of Portion 72) of Farm No. 161, Lubombo District, Swaziland;

MEASURING : 329,9526 (Three Two Nine Comma Nine Five Two Six) Hectares;

FARM NO. 6

CERTAIN : Portion 7 of Farm No. 69 Lubombo District, Swaziland;

601

MEASURING : 1080,0526 (One Zero Eight Zero Comma Zero Five Two Six) Hectares;
ALL HELD : By the Defendant under Deed of Transfer registered on the 7th May 1992.
RESERVE PRICE : For all - E1,5 Million

The 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 THIS 26TH DAY OF JULY 1999.

S J GAMA
Sheriff of Swaziland
c/o The Registrar of the High Court
Mbabane

A1191 06-08-99

NOTICE

ESTATE LATE: NONHLANHLA MANGALISO TSABEDZE ESTATE NO. EM393/98

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

MRS VICTORIA TSABEDZE
P. O. Box 5
Luve

A1187 06-08-99

NOTICE

ESTATE LATE: MANKUNZINI SIMELANE ESTATE NO. ES211/98

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

NESTER SIMELANE
P. O. Box 3786
Mbabane

A1204 06-08-99

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2186/98

In the matter between :

SWAZILAND DEVELOPMENT & SAVINGS BANK

Plaintiff

and

OSCAR ZONDI MAMBA

Defendant

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 Manzini outside the Regional Offices Building, Manzini at 11.00 a.m. on Friday the 20th day of **AUGUST 1999.**

CERTAIN : Lot No. 616 situate in Manzini Extension No. 6 Manzini District, Swaziland.
MEASURING : 1692 (one six nine two) square metres.
RESERVE PRICE : E500 000.00 (Five Hundred Thousand Emalangeni)
HELD : By Defendant
IMPROVEMENTS : A residential house, three bedroom, Lounge, dinning room, double garage plus servants quarters.

The conditions of sale are available for inspection at the offices of The Sheriff of Swaziland at the Regional Offices Building in Manzini and at the offices of the Regional Administrator, Manzini as well as the offices of Bheki G. Simelane and Company, 1st Floor Sokhamlilo Building, Johnstone Street, Mbabane in the Hhohho District.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE ON THE 20TH DAY OF JULY 1999.

S. J. GAMA
Sheriff of Swaziland
c/o Registrar of the High Court
Mbabane

A1216 06-08-99

NOTICE

ESTATE LATE: AMOS BHEVA ZWANE ESTATE NO. EH74/99

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

MAVIS H. ZWANE & RICHARD ZWANE
P. O. Box 469
Bhunya

A1188 06-08-99

NOTICE

ESTATE LATE: MICHAEL LUSEKWANE TFWALA ESTATE NO. EP6/99

Notice is hereby given in terms of section 51 bis of the Administration of Estates Act No. 28 of 1902 that the first and final Liquidation and Distribution Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty-one) from date of publication of this Notice.

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

BANDA TFWALA
P. O. Box 190
Pigg's Peak

A1197 06-08-99

NOTICE

ESTATE LATE: NONHLANHLA MDZINISO ESTATE NO. EM80/98

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

MEHLAPHI MDZINISO
P. O. Box 2469
Mbabane

A1198 06-08-99

NOTICE

ESTATE LATE: MIRRIAM LONKHULUMO DLAMINI ESTATE NO. EM126/99

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

ANDREAS DLAMINI
P. O. Box 308
Manzini

A1199 06-08-99

NOTICE

ESTATE LATE: SIMON MBANGO MAGAGULA ESTATE NO. EM252/97

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

MANDLA MAGAGULA
P. O. Box 154
Pigg's Peak

A1203 06-08-99

NOTICE

ESTATE LATE: WASHINGTON S. MKHONTA ESTATE NO. EM90/99

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

PHILDAH MKHONTA
P. O. Box 460
Mbabane

A1207 06-08-99

NOTICE

ESTATE LATE: MBONGISENI GININDZA ESTATE NO. EM57/99

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

NTOMBIKAYISE GININDZA
P. O. Box 72
Mankayane

A1208 06-08-99

NOTICE

ESTATE LATE: SIBONGILE ROSE DLAMINI ESTATE NO. EL59/99

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

ERNEST D. DLAMINI
P. O. Box 4732
Manzini

A1214 06-08-99

NOTICE

ESTATE LATE: SIMONE NGWENYA ESTATE NO. EM249/98

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

ESTHER NGWENYA
P. O. Box 417
Mbabane

A1215 06-08-99

NOTICE

ESTATE LATE: PHILILE SITHEMBILE SIMELANE ESTATE NO. ES93/97

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

RICHARD SIMELANE
P. O. Box 4520
Mbabane

A1217 06-08-99

606

NOTICE

ESTATE LATE: MICHAEL SIMOKO ZULU ESTATE NO. EH64/99

Notice is hereby given in terms of section 52 bis of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation Account will lie open at the office of the Master of the High Court of Swaziland Mbabane for a period of 21 days (twenty one days) from the date of publication of this Notice.

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

HELEN ZULU
P. O. Box 4957
Mbabane

A1218 06-08-99

NOTICE

SALE OF BUSINESS

MOTORWORLD (PTY) LTD HAS PURCHASED THE BUSINESS OF SIR MOTORS (PTY) LTD (TRADING AS SIR MOTORS) WITH EFFECT FROM 01 AUGUST 1999.

A1219 06-08-99

NOTICE

ESTATE LATE: MJUBI MAGAGULA ESTATE NO. EP19/99

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

NELSON DLAMINI
P. O. Box 139
Tshaneni

A1189 06-08-99

NOTICE

ESTATE LATE: NGILANDI MANGISI MAPHALALA ESTATE NO. EL60/99

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

MRS ELIZABETH SHABANGU
C/o Mirriam M. Maphalala
P. O. Box 24
Lomahasha

A1190 06-08-99

607

NOTICE

**IN THE ESTATE OF THE LATE ENOCK BOY MTETWA OF SITEKI, LUBOMBO DISTRICT,
WHO DIED AT MBABANE GOVERNMENT HOSPITAL, HHOHHO DISTRICT, ON
THE 10TH MARCH 1999**

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

P. R. DUNSEITH
Attorney for the Executrix Dative
Lansdowne House
P. O. Box 423
Mbabane

A1192 06-08-99

NOTICE

ESTATE LATE: BUSISIWE THEMBISILE MZILENI ESTATE NO. ES114/98

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

BHEKI J. MZILENI
P. O. Box 1550
Manzini

A1193 06-08-99

NOTICE

ESTATE LATE: MAGALA JEREMIAH KUNENE ESTATE NO. EH98/99

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

ROSE NOMSA KUNENE (NEE MTHUPHA)
P. O. Box 16
Mbabane

A1194 06-08-99

NOTICE

ESTATE LATE: DANIEL LONDALANE DLUDLU ESTATE NO. EM262/99

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

STEVEN ZIBOVU DLUDLU
Private Bag 7
Mankayane

A1196 06-08-99

608

NOTICE

ESTATE LATE: SAMSON MGCIBELO VILAKATI ESTATE NO. EP48/98

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

MRS PHUMZILE DLAMINI
P. O. Box 3233
Mbabane

A1200 06-08-99

NOTICE

ESTATE LATE: BHEKI ERIC MDLOVU ESTATE NO. EL47/99

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

JENETT MDLOVU
P. O. Box 195
Siteki

A1201 06-08-99

NOTICE

ESTATE LATE: ISAAC NXUMALO ESTATE NO. ES35/99

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

SARAH NXUMALO
P. O. Box 89
Mhlosheni
Nhlangano

A1205 06-08-99

NOTICE

ESTATE LATE: VELOKWAKHE SHIBA ESTATE NO. EH91/99

Debtors and Creditors for the abovementioned Estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this notice.

LUCAS SHIBA
P. O. Box 80
Mhlambanyatsi

A1206 06-08-99

609

NOTICE

ESTATE LATE: BUSISIWE DIRECTOR MTHETHWA (NEE MDLULI) ESTATE NO. EM23/99

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

BARABAS BADNOS MTHETHWA (EXECUTOR)
P. O. Box 49
Mbabane

A1211 06-08-99

NOTICE

ESTATE LATE: ANNA LOMAKHEMISI DLAMINI ESTATE NO. EH5/99

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

PRECIOUS OLLY MABUZA
P. O. Box 1176
Mbabane

A1212 06-08-99

NOTICE

ESTATE LATE: SIMON MBABANE NTSHALINTSHALI ESTATE NO. EM334/98

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

DINGANE NTSHALINTSHALI
P. O. Box 76
Mbabane

A1213 06-08-99

NOTICE

ESTATE LATE: VUYISILE WENDY SIBIYA ESTATE NO. EM133/99

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

MARGARET SIBIYA
P. O. Box 93
Kwaluseni

A1210 06-08-99

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XXXVII]

MBABANE, Friday, August 6th., 1999

[No. 498

CONTENTS

No.	Page
PART A - BILLS	
6. The Public Health Bill, 1999	S1
PART C - LEGAL NOTICES	
88. Appointment of Acting Principal Secretaries	S99

THE PUBLIC HEALTH BILL, 1999

(Bill No. 6 of 1999)

(To be presented by the Ministry for Health and Social Welfare)

MEMORANDUM OF OBJECT AND REASONS

The object of this Bill is to improve the health status of the Swazi people and any other persons in the country by -

- (a) providing preventive, rehabilitative and curative health services which are relevant and accessible to all;
- (b) the provision of the promotion of public health within the country and in this regard to provide for measures directed on preventing, suppressing and treating diseases and conditions as well as maintaining a healthy environment that is safe for human habitation and other forms of life;
- (c) providing enabling provisions for establishing facilitative structures in the form of advisory and health committees;
- (d) defining duties and responsibilities of health personnel in Government, organizations, or bodies and the relationship thereto;
- (e) providing for International Health Regulations, Health Conventions and Health Protocols;
- (f) repealing the Public Health Act, No. 5 of 1969; and
- (g) providing for other matters connected with the provision and administration of public health.

M. DWAMENA
Acting Attorney-General

A BILL
entitled

An Act to provide for the preventive, promotive, curative, palliative and rehabilitative and health services and the promotion of public health and a health environment safe for habilitation for all in the country.

ENACTED by the King and Parliament of Swaziland.

Arrangement of Sections

Sections.

PART I: PRELIMINARY

1. Short title and commencement.
2. Application.
3. Interpretation.

PART II: ADMINISTRATION

4. Functions of the Ministry.
5. Establishment of the Public Health Advisory Board.
6. Functions of the Public Health Advisory Board.
7. The Establishment of Hospital Advisory Committees and Health Committees.
8. Appointment and duties of Director of Health Services and Deputy.
9. Appointment of other public health Officers.
10. Duties of the Minister in respect to public health officers.
11. Local authorities to appoint public health officers.
12. Duties of the officer in charge of health services in a local authority.
13. Government public health officers in areas with no local authorities.
14. Local authorities failing to appoint public health officers.
15. Removal of certain public health officers.
16. Duties of local authorities.
17. Establishment of health committees and communication mechanism in local authorities.
18. Defaulting local authorities.

PART III: PREVENTION AND SUPPRESSION OF
COMMUNICABLE DISEASES

19. Notifiable diseases.
20. Notification of diseases.
21. Notification by a medical practitioner.
22. Local authorities and other bodies to transmit returns of notification.
23. Caution against negligent notification and reporting.
24. Regulations on the notification of diseases.
25. Inspections of infected premises and examination of persons suspected to be suffering from infectious diseases.
26. Provision of isolation facilities, mortuaries, disinfecting facilities and ambulances by local authorities and Government.
27. Removal to hospital of infected persons.
28. Measures to be adopted by a local authority in case of infectious diseases.
29. Powers of the Ministry and local authority to order, investigate or carry out disinfection.
30. Exposure of infected persons and articles.

31. Conveyance of infected persons.
32. Prohibition of evacuation or letting of infected premises.
33. Removal of bodies of persons who died of infectious diseases.
34. Powers respecting the burial and disposal of bodies of persons who died of infectious diseases.
35. Provision of cemeteries.
36. Powers of Minister to make orders and notices regarding infectious diseases.
37. Regulations regarding infectious diseases.
38. Diseases subject to International Health Regulations.
39. Notification of suspected cases of diseases subject to International Health Regulations.
40. Reporting of diseases subject to International Health Regulations by facsimile or any other fastest means.
41. Powers of Minister where local authority fails to deal adequately with diseases subject to International Health Regulations.
42. Notification of sickness or mortality in animals due to zoonosis diseases.
43. Powers of Minister and local authorities to requisition buildings, equipment, vehicles and other articles to suppress disease outbreaks.
44. Appointment of an epidemic committee or task force.
45. Advances to local authorities and other bodies.
46. Protection of Government property.
47. Refunds to a local authority and other bodies.
48. Regulations regarding diseases subject to International Health Regulations.
49. Offences and penalties.

PART IV: MENTAL HEALTH

50. Mentally disordered persons.
51. Duties of the Chief Psychiatrist.
52. Establishment of mental health institutions.
53. Detention in hospital of mental patients.
54. Rights of mental patients.
55. Assessment of medically suspected mental patients standing trial in the courts of law.
56. Power of the Minister to make orders and regulations.
57. Offences and penalties.

PART V: SEXUALLY TRANSMITTED INFECTIONS

58. Sexually transmitted infections.
59. Duties of health practitioners.
60. Transmission of infection an offence.
61. Detention, treatment of sentenced infected persons.
62. Certain infected persons may not be detained.
63. Examination of females by female health practitioners.
64. Other rights of detained persons under this Part.
65. Proceedings to be in camera and reports not to be published.
66. Prohibition on publication of advertisements of cures.
67. Provision of facilities of diagnosis and treatment of sexually transmitted diseases.
68. Protection of boy-child, girl-child and woman from forced or coerced sex.
69. Regulations respecting sexually transmitted infections and diseases.

PART VI: INTERNATIONAL HEALTH REGULATIONS, HEALTH CONVENTIONS AND HEALTH PROTOCOLS

- 70. Enactment of International Health Regulations and Protocols.
- 71. Powers to apply International Health Regulations, Conventions and Protocols.
- 72. Regulations.

PART VII: IMMUNIZATION AGAINST SPECIFIED DISEASES

- 73. Specified diseases.
- 74. Immunization of persons.
- 75. Persons to carry out immunizations.
- 76. Charges for immunization against specified diseases.
- 77. Evidence of immunization before admission to learning institutions.
- 78. Emergency immunization of population at risk of specified diseases.
- 79. Regulations.
- 80. Offences and penalties.

PART VIII: WATER SUPPLIES

- 81. Collective responsibility to provide clean and healthy water.
- 82. Duties of other responsible authorities to furnish clean and healthy water.
- 83. Water works not to be commenced until approved.
- 84. Health opportunities impact assessment on water resources development.
- 85. Water supply systems to be maintained in good repair.
- 86. Powers to inspect water works, waste treatment works or facilities to monitor effluent quality.
- 87. Waste water management.
- 88. Regulations.
- 89. Offences and penalties.

PART IX: FOOD SUPPLIES AND FOOD HYGIENE

- 90. Duties of a local authority and other persons.
- 91. Duties of environmental health officers.
- 92. Inspection and licensing of milk dairies.
- 93. Unwholesome, diseased or contaminated food.
- 94. Power to inspect food, articles and premises.
- 95. Closure of food premises for clean-up or repairs.
- 96. Hygiene for food handlers.
- 97. Control of street food vending.
- 98. Regulations.
- 99. Offences and penalties.

PART X: INFANT NUTRITION

- 100. Infant to be nourished.
- 101. Breastfeeding of infants.
- 102. Regulations in respect infant nutrition.
- 103. Offences and penalties.

PART XI: SLAUGHTER HOUSES AND MEAT HYGIENE SLAUGHTER-HOUSES

104. Definition of a slaughter house.
105. Local authorities to licence slaughter houses.
106. A local authority may refuse the grant of a licence or permit.
107. Licence required for the use of premises as a slaughter house.
108. Cancellation of a licence.
109. Prohibition against sale of meat not slaughtered in a slaughter house.
110. Inspection of meat.
111. Seizure, condemnation and destruction of meat.
112. Conveyance of meat in approved closed vehicles.
113. Closure of meat shop for cleansing and monitor repairs.
114. Regulations.
115. Offences and penalties.

PART XII: CONTROL OF HAZARDOUS SUBSTANCES, RADIO-ACTIVE AND TOXIC WASTES

116. Control of hazardous substances, radioactive and toxic wastes.
117. Establishment of the hazardous substances control authority.
118. Functions of the authority.
119. Conditions of office of members.
120. Inspectors and environmental health officers.
121. Powers of inspectors and environmental health officers.
122. Analysis of samples.
123. Inspection and licensing of premises dealing with hazardous substances.
124. Other offences.
125. Restricted use and protection of persons handling radio-active substances or materials.
126. Regulations.
127. Offences and penalties.

PART XIII: NUISANCE, SANITATION, DWELLINGS, PUBLIC AND OTHER BUILDINGS.

128. Interpretation.
129. Nuisance prohibited.
130. Duties of local authorities to maintain cleanliness and prevent nuisance.
131. Duty of local authorities to prevent or remedy danger to health arising from unsuitable dwellings.
132. What constitutes a nuisance.
133. Notice to remove nuisance.
134. Procedure in case owner fails to comply with notice.
135. Offence and penalties regarding to nuisance.
136. Court may order local authority to execute works in certain cases.
137. Power of sale.
138. Persons jointly responsible for nuisance may be proceeded against.
139. Rights of members of the public to complain against nuisance.
140. Examination of premises.
141. Demolition of unfit buildings.
142. Savings as to other legislation relating to nuisance.
143. Cost of execution of provisions relating to nuisances.
144. Buildings used for storage of food.

- 145. Rooms used for storage food.
- 146. Powers of entry and inspection, etc.
- 147. Special powers of medical officer of health.
- 148. Other duties of local authority.
- 149. Prohibitions.
- 150. Regulations and orders.
- 151. Offences and penalties.

PART XIV: PUBLIC HEALTH REQUIREMENTS RESPECTING TRADE PREMISES

- 152. Interpretation of trade premises.
- 153. Powers of the Minister.
- 154. General health requirements of trade premises.
- 155. Inspection of trade premises.
- 156. Closure of premises violating this Act or regulations.
- 157. Regulations.
- 158. Offences and penalties.

PART XV: OCCUPATIONAL SAFETY AND HEALTH

- 159. Policy, regulations, orders and directives.
- 160. Collaboration between the Ministry and other ministries.
- 161. Establishment of an occupational experts committees.
- 162. Regulations.
- 163. Discipline.
- 164. Offences and penalties.

PART XVI: GENERAL PROVISIONS

- 165. Powers of entry and inspection and penalties for obstruction.
- 166. Protection of officers and other persons.
- 167. Protection of the Government, local authorities and other persons.
- 168. Establishment of public laboratories.
- 169. Reciprocal notification and consultation between ministries.
- 170. Collaboration and liaison with other sector agencies on public health issues.
- 171. Rights of persons to recover for damages suffered.
- 172. Fraudulent conduct respecting certificates specified under this Act.
- 173. Powers of a local authority to act outside its jurisdiction.
- 174. Supremacy of this Act.
- 175. The burden of proof in respect of knowledge of infection or disease.
- 176. Defect in form not to invalidate.
- 177. Service of notices.
- 178. Prohibition of smoking of tobacco in certain public places.
- 179. Prohibition of smoking tobacco and other acts by young persons.
- 180. Protection of women and children.
- 181. Protection for all.
- 182. Regulations in respect of traditional healers and medicine.
- 183. Appropriate facilities for the disabled persons.
- 184. Regulations in respect of disasters.
- 185. Regulations.
- 186. Penalties where not expressly provided.
- 187. Transitional provisions.
- 188. Repeal.

PART I: PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Public Health Act, 1999 and shall come into force on the date of publication.

Application.

2. (1) This Act shall apply to and is binding to every person, body, institution and the Government.

(2) Any person, entitled under this Act, to a benefit or believing is owed a duty from any other person, body, institution or Government may, if that benefit or duty is denied or is unreasonably withheld, seek redress through a court process through a competent Court.

(3) The Minister, court, or any other person, implementing or interpreting a provision of this Act shall ensure that the purposes and objectives of this Act are not defeated or compromised, being the provision of preventive, promotive, rehabilitative, and curative health services and the promotion of public health and a healthy environment safe for all.

(4) The Minister, for purposes of this Act and for its effectiveness, shall designate certain persons, bodies, organizations and other authorities or social structures including traditional structures to be local authorities, by notice published in the Gazette.

(5) Subsequent to subsection (4) in addition to such designation the Minister shall further specify, delegate or order functions and duties for each or class of local authority, meaning which Parts or sections of this Act shall apply to that local authority.

(6) The Minister may make regulations, published in the Gazette, to facilitate the purposes and objectives of this Act and a local authority, and may establish communications systems, structures and committees for that purpose.

Interpretation.

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

“approved veterinary surgeon” means a veterinary surgeon approved by the Director of Veterinary Services or by the Director of Health Services as is provided in section 8;

“building” includes any structure whatsoever for whatever purpose used;

“burial” means burial in earth, internment or any other form of sepulture, or the cremation or any other normally accepted mode of disposal of a dead body;

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

“dwelling” means any house, room, shed, hut, cave, tent, vehicle, caravan, remains of a structure or any other structure or place whatsoever, any portion used by a human being for residing or sleeping or in which any human being uses for dwelling;

“food” or “article of food” includes any animal product, fish, fruit, vegetables, dairy produce, milk, milk product, condiments, confectionary, beverages and any other thing or article whatsoever, other than drugs, in any form, state or stage of preparation which is intended or ordinarily used for human consumption;

“health practitioner” includes a medical practitioner, medical officer, environmental health officer and nurse;

“infected” means suffering from, or in the incubation stage of, or contaminated with the infection of any infectious or communicable disease;

“infectious disease” means a disease specified as such by this Act or by the Minister as provided in this Act;

“isolated” means the segregation, and the separation from and interdiction of communication with others, of persons who are or are suspected of being infected;

“land” includes any right over or in respect of land;

“local authority” means -

- (a) a municipal council, city council or town council;
- (b) a town board; or
- (c) any other body or authority or traditional structures;

designated as such in terms of this Act by the Minister,

“medical observation” means the segregation and detention of persons under medical observation;

“medical officer” means a medical practitioner in the service of the Government;

“medical practitioner” means a person who is registered as such under any law relating to the registration of medical practitioners and, for purposes of this Act, not in the service of the Government;

“medical surveillance” means the keeping of a person under medical supervision and persons under such surveillance may be required by a health practitioner or local authority or any other authorised person to remain within a specified area or to attend for medical examination at specified places and times;

“Minister” means the Minister responsible for public health;

“Ministry” means the Ministry responsible for public health;

“notifiable”, in relation to any disease, means required to be notified to any person or authority in terms of this Act;

“Occupier” in relation to any premises, means -

- (a) any person in occupation of those premises;
- (b) any person legally entitled to occupy those premises; or
- (c) any person having the charge or management of those premises;

and includes the agent of any person when such person is absent from Swaziland or the whereabouts of such person are unknown and in the case of premises used as a school or similar institutions, the expression.

“occupier” includes the headteacher or person in charge of such school or similar institutions;

“officer” includes any employee of a city or town council or town board;

“premises” means any building or place or tent, together with the land on which the same is situated and the adjoining land used in connection therewith, and includes any vehicle, conveyance or space;

“public building or place” means -

- (a) any church, chapel, meeting - house or premises used for divine worship;
- (b) any theatre, opera - house, hall, exhibition buildings or premises open to members of the public, whether with or without payment;
- (c) any hotel or boarding house, hostel, lodging house or any sleeping accommodation open to the public;
- (d) any hospital, school or institution; or
- (e) any place the Minister may in terms of this Act declare to be a public building or place; and

“owner” in relation to any premises, means -

- (a) the person in whose name the title to those premises is registered and includes the holder for value of such a title deed;
- (b) if such a person or holder is dead, insolvent, mentally disordered or defective or a minor or under any legal disability, the person in whom the administration of that person’s or holder’s estate is vested, whether as executor, guardian or in any other capacity whatsoever; or
- (c) if the premises are under lease, the registration whereof is in law necessary for the validity of such lease, the lessee; and
- (d) where an owner, as defined in this section, is absent from Swaziland or the owner’s whereabouts are unknown, the expression “owner” includes an agent of such owner or any person receiving or entitled to receive rent in respect of the premises.

PART II: ADMINISTRATION

Functions of the Ministry.

4. (1) The Minister shall be the overall head of the Ministry, responsible to the Government and the people of Swaziland and further responsible for and to this Act.

(2) The functions of the Ministry shall, subject to the provision of this Act, include -

- (a) the prevention and guarding against the introduction of diseases into the country;
- (b) the prevention, limitation and suppression of infectious, contagious and other diseases within the country;

- (c) the promotion of public health and ensuring that every person has access to public health education, literature, knowledge, information, counselling, facilities and other such like amenities;
- (d) ensuring the equitable provision of facilities for early diagnosis and prompt treatment of diseases in order to limit disability and loss of life;
- (e) the application of measures to habilitate any person incapacitated by disease, injury or by any physical or mental defect;
- (f) the promotion of personal health, environmental health, infant nutrition and oral health;
- (g) the promotion and the carrying out of research and investigation in respect of the prevention, control and treatment of diseases;
- (h) advising, assessing and directing urban and rural persons or bodies, involved in matters affecting public health or in respect of matters affecting public health;
- (i) the liaising with the international community and agencies on disease control, suppression, eradication and on other matters respecting public health;
- (j) establishing or appointing advisory boards or bodies, advisors and committees or similar bodies to assist the Minister in matters respecting public health; and
- (k) generally, to administer and put into effect the provisions of this Act.

(3) The Minister may make regulations, orders or notices, published in the Gazette, to give effect to the purposes of this Part, or to regulate anything which the Minister may lawfully regulate under this Part for the purposes of this Act.

Establishment of the Public Health Advisory Board.

5. (1) There is established, for purposes of this Act, a body to be known as the Public Health Advisory Board which shall consist of the following members who shall be appointed by the Minister and each member's term of appointment shall not exceed a period of four (4) years and each member may be reappointed subject to good behaviour, age, capability, expertise and professionalism -

- (a) a Chairman who may or may not be a medical practitioner and who shall preside over the meetings of the Board;
- (b) a Deputy Chairman who may or may not be a medical practitioner and who shall preside over the meetings of the Board in the absence of the Chairman;
- (c) a Secretary to the Board who shall be an official from the Ministry;
- (d) two members who shall be registered environmental health officers, representing environmental health workers;
- (e) two members, representing the Medical and Dental Association of Swaziland or such similar body;
- (f) one member who shall be a registered nurse or midwife representing nurses;
- (g) one member, representing the Urban Government or Local Authority, as the case may be;

- (h) one member, representing such bodies performing the functions of medical aid societies, if any;
- (i) one member, who shall be a registered pharmaceutical chemist, representing pharmacists;
- (j) one member, representing missionary bodies or such similar bodies carrying out public health activities;
- (k) two members, one representing the Red Cross Society and the other representing the Nutrition Council;
- (l) Notwithstanding paragraph (e), one member who shall be a dental surgeon, representing registered dentists;
- (m) two members, one representing employers federation and the other representing employees federation;
- (n) one member representing a consumer association or such similar body;
- (o) one member, representing the Traditional Healers Association or such traditional healers;
- (p) one member, representing a women's association or women engaged significantly in public health;
- (q) one member who is a veterinary surgeon, representing veterinary surgeons and meat inspector;
- (r) two members from the non-government organisations engaged significantly in public health or palliative services; and
- (s) such additional members, not exceeding four as the Minister may appoint.

(2) The Principal Secretary for the Ministry shall be ex-officio member of the Board.

(3) The Board shall make its own rules of procedure including the formation of a quorum but it shall hold not less than four meetings in one calendar year.

(4) The Minister may, before appointing the members of the Board, call upon any person or body of persons entitled to be represented to nominate suitable candidates for appointment and failure of such person or body or persons to present a nominee, for whatever reason, the Minister shall appoint any suitable person who may be appointed under this section.

(5) Notwithstanding subsection (4), the Minister may appoint to the Board a person who has not been nominated by any person or body of persons and may decline to appoint any person so nominated and in that occurrence the Minister shall give reasons if so required by the person or body of persons who made the nomination and no civil suit for damages or costs will lie against the Minister for anything done or not done under this section.

(6) A member of the Board shall cease to be a member where that member -

- (i) dies;
- (ii) is charged with, rape, sodomy, incest, under the Girls and Women Protection Act, 1920, or of indecent assault or of abduction;

- (iii) intentionally infects another person with an incurable disease or infectious disease;
- (vi) is charged with theft from medical stores or receiving stolen medical stores knowing them to be stolen or such conspiracy;
- (v) tenders that member's resignation letter to the Minister, giving a notice of not less than thirty days of such intention provided that such action, if the member is a public employee, does not conflict with that member's contract of employment;
- (vi) is imprisoned for a period not less than three months;
- (vii) suffers a disability rendering the member incapable to continue as a member;
- (viii) is absent in three consecutive meetings without an reasonable excuse to the Board or Minister or ceases to represent the interests of the nominating person or bodies;
- (ix) is convicted under the Pharmacy Act, the Opium and Habit-forming Drugs Act or their successors, or is convicted for possession or trafficking in illicit or prohibited drugs;
- (x) is removed from the Board by the Minister who may for national interest or for proper management of this Act, revoke the appointment of any member; or
- (xi) is charged or convicted of any other offence the Minister may specify by notice published in the Gazette.

(7) The Minister may appoint any person appointable under this Act in place of a member whose membership to the Board has ceased, with or without prior nominations for such period as the Minister feels it is necessary but not exceeding four years.

(8) The first meeting of the Board shall be held at a place and time determined by the Minister and subsequent meetings shall be held at a place and time determined by the Chairman or the Board.

(9) The Minister may direct the Board to hold a meeting if the Minister so requires and the Board shall comply.

(10) The Board shall compile and deliver to the Minister an Annual Report within three months after the expiration of each calendar year and the Board may make other reports to the Minister as the Board feels appropriate and necessary or as often as the Minister requires or as the Minister ought, for purposes of this Act, have a report.

Functions of the Public Health Advisory Board.

6. (1) The Board shall advise the Minister on all matters respecting to public health in the country.

(2) The Board may establish committees or such other bodies and the Board shall determine the procedure and functions and the manner in which persons with special knowledge or skills may be co-opted to serve on such committees or bodies and the Board shall inform, and where appropriate, seek the approval of the Minister when carrying out its functions.

(3) The Minister may, for purposes and objectives of this Act, appoint persons with special knowledge or skills to committees or bodies as may be established by the Board.

(4) The Board or such committee or body as established by the Board shall have the power to conduct an inquiry into any matter relating to public health on its own initiative or as directed by the Minister and the provisions of the Commissions of Enquiry Act, 1963 or its successor shall apply to the Board and such committees and in respect of the enquiry so instituted.

(5) The Minister may stop an enquiry instituted by the Board or by a committee subject to full disclosure, to the Board, the committee and the public, of the reasons for such decision to stop the enquiry and in this respect every member of the public shall have an enforceable right to the reasons.

(6) The Board or committee shall, in terms of subsection (4) diligently make a full and impartial inquiry into any matter it is enquiring into and the Board or committee shall immediately furnish the Minister with a report which shall include recommendations in accordance with the findings of the enquiry.

(7) The Minister may compel the Board or any such committee to make and deliver the report by instituting a court process through the High Court notwithstanding that the enquiry was not ordered by the Minister.

(8) The Minister shall ensure that the Board shall at all times remain functional and carries on its duties in a professional manner.

(9) The Minister in consultation with the Minister for Finance shall determine allowances or fees, if any, payable to the members of the Board and the committees.

The Establishment of Hospital Advisory Committees and Health Committees.

7. (1) The Minister may, for the purpose of this Act, establish any number of committees, each, to be known as Hospital Advisory Committee, in the case of a hospital and Health Committee, in the case of a health centre, clinic or similar institution.

(2) The Minister may make regulations in respect to the composition, terms of reference and rules of procedure for the committees established under this section.

Appointment and duties of Director of Health Services and Deputy.

8. (1) The Civil Service Board, or its successor, in consultation with the Minister, shall appoint the Director of Health Services who shall be answerable, administratively, to both the Minister and the Principal Secretary in the performance of the duties of the Director of Health Services.

(2) The duties of the Director of Health Services shall include -

- (a) coordination, supervision and directing the technical health issues of the public health;
- (b) advising the Minister and the Principal Secretary on the recruitment and appointment of public health officers and other technical health officers;
- (c) advising the Minister and the Principal Secretary on administrative, health planning and technical planning;
- (d) advising the Ministry on all issues pertaining to public health;
- (e) approving the recruitment or appointment of certain public health officers or practitioners, including veterinary surgeons employed under the Ministry if any, and the educational qualifications relating thereto;

- (f) advising any person requiring advice on issues pertaining to public health; and
- (g) any other duties that may be given from time to time by the Minister, Principal Secretary, legislation or other authorities.

(3) The Director of Health Services shall, in carrying out the functions or duties specified in this Act, or elsewhere be assisted by a Deputy Director of Health Services who may act as the Director of Health Services in the absence of the Director and who, notwithstanding that the Deputy Director is subordinate to the Director, may lawfully carry out the functions of the Director in cases of emergency requiring immediate action and the Director is not available.

(4) The Director of Health Services or such other authority may from time to time assign or delegate some of the duties of the Director to the Deputy Director of Health Services.

(5) In case of conflict and misunderstanding about the best cause of action, the Director of Health Services shall have the final order and immediately thereafter, the Director or the Deputy Director shall refer the matter or issues not agreed upon to the Principal Secretary or the Minister or to both or to any other person agreed upon who may be competent to solve the matter or the issues in dispute.

(6) No person shall be appointed Director or Deputy Director of Health Services unless that person -

- (a) is fully qualified for registration as a medical practitioner or medical officer under the law relating to the registration of medical practitioners or officers or is licensed under the foregoing law to practice as a medical practitioner or officer; and
- (b) holds a post-graduate qualification in public health which qualification is registrable in Swaziland.

Appointment of other public health officers.

9. (1) The Minister, subject to the law relating to the appointment and recruitment of public officers, shall, for the purposes of implementing the provisions of this Act, recruit and appoint other public health officers who shall be, medical health officers, dental officers, psychiatrists, environmental health officers, pharmacist, nurses, laboratory technologists and other health officers as are required for the proper management of public health in Swaziland.

(2) The Ministry may appoint or cause to be appointed medical officers who shall be in charge of curative services in a hospital, health centre or clinic and such officers shall at least hold first degrees in medicine and who shall be answerable to the Director of Health Services, subject to the law relating to the employment of public servants.

(3) The Ministry may appoint or cause to be appointed a Chief Pharmacist who shall at least hold a degree in Pharmacology and who shall be answerable to the Director of Health Services and the duties of the Chief Pharmacist shall include -

- (a) advising the Director of Health Services on all pharmaceuticals including vaccines;
- (b) the control and monitoring of the importation, distribution, registration and use of drugs;
- (c) the ensuring that imported drugs into the country are of the required and appropriate standard and quality;

- (d) the implementation and enforcement of any pharmaceutical legislation;
- (e) advising on the appropriate curriculum and educational qualification requirements for pharmacists;
- (f) advising on the appointment of pharmacists to Government or to any person who requires such advices;
- (g) the supervision of the Drug Registration and Control Authority which shall have as its head the Registrar of Drugs and who shall be answerable to the Chief Pharmacist; and
- (h) advising on an opposing the issue of permits or licenses to persons operating or processing or intending to establish pharmacies, drugs, drugs selling premises or business or the selling or pharmaceuticals.

(4) The Minister may appoint or cause to be appointed a chief or a principal environmental health officer who shall at least hold a degree but preferably a post-graduate qualification in environmental health sciences and who shall be answerable to the Director of Health Services and the duties of the officer shall include -

- (a) advising the Director of Health Services on all technical issues pertaining to environmental health services and activities;
- (b) advising the Director of Health Services on the recruitment and appointment of environmental health officers;
- (c) the implementation and enforcement of environmental health legislation and the improvement of such legislation;
- (d) the setting up of appropriate standards on food management (storage, transportation, preservation and marketing), drinking water, trading premises, public buildings and other buildings, levels of pollution, and other standards as the officer may see fit;
- (e) advising on the appropriate curriculum and educational qualification requirements for environmental health officers;
- (f) advising on the levels of appointments of environmental health officers; and
- (g) generally, on the up keep and proper management of the health environment.

(5) The Minister may appoint or cause to be appointed a chief nursing officer who shall at least hold a degree in nursing with midwifery and who shall be answerable to the Director of Health Services and the duties of the chief nursing officer shall include -

- (a) advising the Director of Health Services on all technical and occupational (professional) issues pertaining to the nursing services;
- (b) implementing and enforcing nursing legislation;
- (c) advising on the revision and updating of the nursing curriculum and educational qualification requirements for nurses and midwives;
- (d) liaisoning with the University of Swaziland on issues pertaining to nursing education;
- (e) advising on the levels of appointments of nurses and the career structure;

- (f) setting up and ensuring the implementation of nursing standards and ethics and career structure; and
 - (g) generally advising on the nursing service.
- (6) The Minister may appoint a chief psychiatrist who shall at least hold a first degree in medicine and a post-graduate qualification in psychiatry and who shall be answerable to the Director of Health Services and whose duties shall include -
- (a) advising the Director of Health Services on all mental health care services;
 - (b) advising the Director of Health Services on recruitment and appointment of suitable technical personnel for the mental health care services;
 - (c) the implementation and enforcement of the mental health care legislation;
 - (d) being responsible, in-charge of and supervising all mental health care institutions in Swaziland;
 - (e) the administration of Mental Health Care and Management of mental health patients;
 - (f) monitoring and assessment of mental health patients including such patients as may be referred by the courts or any other person so authorised; and
 - (g) generally, doing whatever may be done lawfully for the mental health care service.
- (7) The Minister may appoint or cause to be appointed a chief or principal laboratory technologist who shall at least hold a degree in laboratory sciences and who shall be answerable to the Director of Health Services and duties of the chief laboratory technologist shall include -
- (a) advising the Director of Health Services on technical and professional issues pertaining to laboratory services or activities and related research;
 - (b) the responsibility over laboratory management; and
 - (c) the ensuring of maintenance of standards as may be set by the Minister respecting laboratory services and management.

Duties of the Minister in respect to public health officers.

10. (1) The Minister shall, before the appointment of any public health officer, furnish the body responsible for the recruitmental appointment of public health personnel with a specific job description of any officer sought to be appointed and the Civil Service Board shall notify the public by advertising the existence of such post.
- (2) The Minister may, as when the Minister thinks necessary, review and restructure the duties of public health officers and for purposes of informing members of the public respecting the restructured or reviewed responsibilities, the Minister shall publish the restructured or reviewed responsibilities by notice published in the Government Gazette.
- (3) The Minister may, as when the Minister thinks necessary, review and restructure the functional structures of the Ministry in order to give force and effect to the functions and responsibilities of the public health officers and the members of the public shall be notified of the changes by notice published in the Government Gazette.

Local authorities to appoint public health officers.

11. (1) A local authority may appoint a public health officer, with an appropriate designation, who shall be in charge of all public health matters within the jurisdiction of that local authority.

(2) The public health officer mentioned in subsection (1) shall not be appointed, unless -

(a) that person is approved by the Minister after the Minister is satisfied that that person has the required educational qualifications and is a fit and proper person for the office; and

(b) that person holds an appropriate degree in public health and a post-graduate qualification in public health each registrable under the laws of Swaziland.

(3) A local authority may, and shall when required by the Minister after the Minister has consulted with the Minister responsible for local authorities, appoint one or more competent and educationally qualified environmental health officer to carry out the provisions of this Act within the local authority's jurisdiction and such officer or officers shall be answerable to the public health officer appointed under subsection (1).

(4) No person, under this section, shall be appointed an environmental health officer unless that person holds an educational qualification, registrable under the laws of Swaziland, in environmental health sciences.

(5) A local authority may appoint, subject to the provisions of this section, other health officers as it finds necessary for the purposes of this Act.

Duties of the officer in charge of health services in a local authority.

12. (1) The public health officer in charge of health services in a local authority, who is appointed under section 11, shall -

(a) at all times, while holding office, ensure that, is conversant, informed and is aware of all the issues and activities pertaining to the public health and sanitary circumstances or situations under that officer's jurisdiction;

(b) carry out or cause to be carried out inspections and inquiries as may be necessary for the purposes of this Act;

(c) furnish the local authority with all the information in respect to such inspections and inquiries;

(d) furnish such information and special reports, as may be produced from the inspections and inquiries, to the Director of Health Services;

(e) act as a liaison officer with the Director of Health Services in respect to public health; and

(f) carry out orders, as may from time to time, be given by the Director of Health Services which may lawfully be given under this Act.

(2) The Director of Health Services shall create sound communication structures between the Ministry and local authorities, in respect of public health issues, to ensure that there is a sound flow of information between the Ministry and a local authority.

Government public health officers in areas with no local authorities.

13. Notwithstanding the fact that Government public health officers may exercise jurisdiction over the whole of Swaziland, it is specially provided in this section that -

- (i) regional public health officers shall be public health officers for areas that have no local authorities; and
- (ii) regional public health officers shall carry out the duties specified in section 12(1).

Local authorities failing to appoint public health officers.

14. (1) If a local authority fails to appoint an officer permitted by section 11 to be appointed, the Minister may, after the expiration of six months from the date the Minister requested or directed the local authority to appoint such an officer, appoint such officer for the local authority.

(2) The Minister may conclude the remuneration package to be paid to such officer with the officer and the local authority shall pay the remuneration to the officer as concluded between the Minister and the officer.

(3) The power conferred by subsection (2) on the Minister shall not include the power to act unreasonably.

(4) In the event the local authority fails, for any reason whatsoever, to pay that officer's remuneration the Minister may direct that it shall be paid from the Consolidated Fund and recovered by deduction from any subsidy, rents, rates, or any monies due to that local authority.

(5) In appointing health officers in terms of section 14, the Minister may appoint any person who has the required qualifications, including a civil servant, on such terms and conditions as the Minister may think appropriate.

(6) Notwithstanding any provision of this Act, an appointment made by the Minister under section 14 may be for any period of time but at no account shall it exceed a period of twelve months per an appointment.

(7) In the event the Minister appoints a civil servant in terms of section 14, that civil servant shall remain a civil servant for purposes of seniority, resumption of office held before secondment or appointment and for other benefits notwithstanding the fact that the salary of that civil servant is due from the local authority.

Removal of certain public health officers.

15. (1) Where an appointment of a public health officer, under this Act, requires the approval of the Minister the termination of that appointment without the approval of the Minister shall be unlawful, except where -

- (i) the officer voluntarily resigns;
- (ii) the officer reaches the retirement age;
- (iii) the contract of employment has expired;
- (iv) the officer suffers a certifiable disability of mind or body (mental or physical);
- (v) the officer waives in writing the Minister's approval; or

- (vi) the case of the officer is one governed by the law relating to disciplinary measures for convicted public officers or such other law respecting to the discipline for misconduct of employees.

(2) The Minister shall not unreasonably withhold the Minister's approval or consent and any person aggrieved by the Minister's action may seek redress from the Industrial Court.

(3) A local authority, notwithstanding subsection (1), may suspend such officer from duty, whilst the Minister's approval is being sought or where the Minister has yet not responded, in cases of incapacity, neglect or misconduct.

(4) The Minister's approval shall have a retrospective effect for dismissal, that is, the dismissal shall be on the date the suspension was effected while the Minister's refusal shall not have a retrospective effect and no civil liability shall lie to the local authority or any person.

Duties of local authorities.

16. A Local Authority shall take all lawful and necessary precaution and action for the -

- (i) prevention of an occurrence;
- (ii) dealing or fighting an outbreak; or
- (iii) prevalence,

of an infectious or communicable or contagious disease and shall exercise the powers and duties conferred or imposed on it by this Act or any other enactment.

Establishment of health committees and communication mechanism in local authorities.

17. (1) A local authority shall establish a committee to be known as the Health Committee for the better administration of the duties imposed upon the Local Authority, generally by this Act and specially by section 16.

(2) In addition to subsection (1) -

- (i) the Ministry together with one or more local authorities; or
- (ii) two or more local authorities,

may join to establish one health committee such as the health committee mentioned in subsection (1).

(3) The Minister, when so requested by the parties concerned, may permit in the event one or two local authorities is or are too small or only one is too small to have a health committee mentioned in subsection (1) to have a health committee as mentioned in subsection (2) only.

(4) The Minister may, after consultation with a local authority or authorities, make regulations to give force and effect to the provisions of this section and the regulations may provide for all or any of the following -

- (a) the membership of a health committee;
- (b) the number of persons to be members;

- (c) the method of appointing members under subsections (1) and (2);
- (d) the power of a health committee to co-opt a person, with special knowledge or skill, to serve on the committee;
- (e) the method of financing the activities of a health committee; and
- (f) the powers of a health committee.

Defaulting local authorities.

18. (1) On receipt of a report from the Director of Health Services to the effect that in an area under the jurisdiction of a local authority the public health or services are in danger of collapsing or disintegrating due to the failure or refusal on the part of that local authority to exercise the powers or perform the duties devolving upon it under this Act or due to its failure to take lawful and necessary steps to obtain powers to deal with the danger, the Minister may alone or in consultation with any other person or ministry, set up an enquiry into the matter and the local authority shall give a full account of any event or circumstances as may be required.

(2) At the close of the enquiry, the Minister shall have the following powers -

- (a) to call upon that local authority to forthwith exercise the existing or additional powers to properly perform its duties; and
- (b) to exercise such powers and perform such duties in the event the local authority fails to comply with an order issued under paragraph (a); or
- (c) authorise any other person to exercise the powers and perform the duties in the same manner as if that person was a local authority; and
- (d) to apply reasonable disciplinary measures against the local authority.

(3) Any expenditure incurred by Government under subsection (1) or (2) shall be for the account of that local authority and shall be due whenever it is called up.

(4) In the event the local authority fails to settle the amount of the expenditure the Government may recover the money owed to it by -

- (a) civil proceedings in the High Court; or
- (b) deducting the money owed to it from any subsidy, grant, rates or any other money due to that local authority without any court process.

PART III: PREVENTION AND SUPPRESSION OF COMMUNICABLE DISEASES

Notifiable diseases.

19. (1) For the purposes of this Act, the following diseases are notifiable diseases

- (a) Cholera;
- (b) Plague;
- (c) Relapsing Fever (Louse-borne);

- (d) Yellow Fever;
- (e) Acute food poisoning;
- (f) Acute poliomyelitis;
- (g) Anthrax;
- (h) Diphtheria;
- (i) Enteric fever (typhoid and paratyphoid);
- (j) Leprosy;
- (k) Malaria;
- (l) Measles;
- (m) Meningococcal meningitis;
- (n) Rabies;
- (o) Relapsing fever (tick-borne);
- (p) Trachoma;
- (q) Tuberculosis (pulmonary);
- (r) Tuberculosis (other forms); and
- (s) Whooping cough.

(2) The Minister may, by notice published in the Government Gazette, amend subsection (1).

Notification of diseases.

20. (1) In respect of the diseases specified in section 19, the following persons -

- (a) the headteacher or person in charge of a school, pre-school, orphanage or such similar institution; or
- (b) the proprietor, manager or person in charge of the hotel, boarding house, prison, religious institution, traditional healers premises or such similar institution,

shall in the event, or immediately is aware that -

- (c) a child attending or any person working in the school, pre-school, orphanage or such similar institution, or
- (d) a person residing, working, attending or visiting, for whatever purpose, in a hotel, boarding house, prison, religious institution, traditional healers premises or other similar institutions,

is suffering or is suspected to be suffering from any of the diseases specified in section 19 notify, the local authority or the Director of Health Services or an environmental health officer or any other person who is a public health officer, of the suspicion and of the person so suspected.

(2) The person who is reporting the suspicion or awareness shall, if known to the reporting person, give details and address of the suspected person.

(3) A person who contravenes subsection (1) commits an offence, on conviction, shall be liable to a fine not exceeding two hundred Emalangeni and, in default of payment, to a term of imprisonment not exceeding one month or to both such fine and imprisonment.

(4) In a prosecution under this section, the onus shall be on the accused person to prove that such accused person was not aware that the suspected person may have been suffering from a notifiable disease.

Notification by a medical practitioner:

21. (1) A medical practitioner or medical officer, who attends to a person suffering from a notifiable disease, shall immediately -

- (a) furnish a written certificate to;
 - (i) a local authority of the area; or
 - (ii) an environmental health officer responsible for that area; and
- (b) notify by any reasonable means,
 - (i) the head of the household;
 - (ii) the occupier of the premises;
 - (iii) the person attending to or nursing the patient; or
 - (iv) the person who attended or nursed the deceased,

of the notifiable disease or the nature of the notifiable disease.

(2) The medical practitioner or medical officer, in complying with the provisions of subsection (1), shall state in such notification and certificate -

- (i) the name, age and sex of the patient or deceased;
- (ii) the situation of the building, premises or house;
- (iii) the notifiable disease; and
- (iv) the place and location from where the patient or deceased came from in the case of an inmate of a hospital or institution.

(3) A medical practitioner or medical officer who fails to comply with or contravenes this section commits an offence, and is liable, on conviction to a fine not exceeding two thousand Emalangeni or to imprisonment for a term not exceeding two months.

(4) In a prosecution under this section, the onus shall be on the accused person to prove that such accused person was not aware that the patient is, or the deceased was, suffering from a notifiable disease.

Local authorities and other bodies to transmit returns of notifications.

22. A local authority, mission hospital or private health institution shall at the end of each week, and on a form the Minister may prescribe, transmit to the nearest regional officer of the Ministry or to the Director of Health Services, as the case may be, particulars of all cases of notifiable diseases and all deaths from notifiable diseases for that week and such information relating to the outbreak and prevalence of notifiable diseases in that area.

Caution against negligent notification and reporting.

23. Every person concerned in or involved in the notification or reporting of notifiable diseases shall exercise extreme care and strict caution and confidentiality when notifying or reporting and shall not unnecessarily, recklessly or negligently expose the patient's or deceased name but at the same time balancing the wider interest of the community and the purposes of this Act on the one hand and - on the other hand the rights of the patient or relatives of the deceased to confidentiality.

Regulations on the notification of diseases.

24. (1) The Minister may, in respect to the notification of diseases, make regulations respecting to -

- (a) the duties of owners or occupiers of land, owners or managers of mines, employers of labour, and all chiefs or headmen and others in regard to reporting the occurrence of such diseases, as may be prescribed in the regulations;
- (b) the duties of medical practitioners or others in regard to reporting or notification of such diseases as may be prescribed in the regulations;
- (c) the circumstances in which notifications of particular infectious diseases shall not be required;
- (d) the duties of all local authorities and similar bodies in respect of keeping registers and records of such notifications;
- (e) the duties of registrars of deaths in respect of furnishing the Ministry and local authorities with notifications or returns of deaths;
- (f) the fees payable, if any, to medical practitioners in respect to notifications, and the circumstances in which fees may or may not be payable, the forms to be used and the particulars to be furnished by medical practitioners when making the notifications;
- (g) the forms to be used by local authorities or mission hospital or private health institutions when transmitting returns and reports to the Ministry and generally for the better carrying out the provisions and attaining the objects and purposes of this Part.

(2) Any person who contravenes any of the provisions or such regulations commits an offence, liable on conviction to penalties contained in this Act or to such penalties that may be contained in the regulations.

Inspection of infected premises and examination of persons suspected to be suffering from infectious diseases.

25. (1) A medical practitioner, medical officer, nurse, environmental health officer or any other person the Minister may authorise, may at a reasonable time, enter and inspect any premises where the medical practitioner, medical officer, nurse, environmental health officer or the person authorised by the Minister, has reason to believe that a person suffering from or recently suffered from an infectious disease is or has been in the premises.

(2) The medical practitioner, medical officer, nurse, environmental health officer or the person authorised by the Minister may medically examine or cause to be medically examined any person found in the premises in order to ascertain whether any person in the premises is suffering or has symptoms of an infectious disease.

(3) An officer or any person mentioned in this section responsible for making a medical examination shall take any appropriate and necessary steps in terms of this Act with a view of ratifying the situation.

Provision of isolation facilities, mortuaries, disinfecting facilities and ambulances by local authorities and Government.

26. The Government, a local authority so designated under section (2), mission hospital and any other person may provide and maintain, either separately or jointly with any other person -

- (a) suitable hospitals or places or wards of isolation for the accommodation and treatment of persons suffering from infectious diseases;
- (b) mortuaries or places for the reception of dead bodies pending the carrying out of post-mortem examination ordered by a lawful authority, or until removal for burial;
- (c) disinfecting and cleaning facilities, appliances and equipment for the cleansing of persons and the disinfection of bedding, clothing or other articles which have been exposed to, or are believed to be contaminated with the infection of any infectious disease, or which are dirty or verminous;
- (d) ambulances for the conveyance of persons suffering from any infectious disease and, suitable vehicles for the removal of any infected linen, clothing or other articles;
- (e) any other accommodation, equipment or articles required for dealing with any outbreak of infectious diseases.

Removal to hospital of infected persons.

27. (1) An environmental health officer or such other authorised person, where a person is certified by a medical practitioner or medical officer to be suffering from an infectious disease and that person is not interned or is not being treated sufficiently or is not nursed in such a manner as to adequately guard against the spread of the disease, may order the removal of such a person to a suitable hospital or place of isolation and there be detained until a medical practitioner or medical officer is satisfied that the person is free from infection and can be discharged without danger to the public.

(2) The environmental health officer or such other authorised person may address the removal order under subsection (1) to an authorised person in the local authority or to a named police officer for purposes of enforcement.

(3) A person, who wilfully obstructs or prevents the execution of an order under this section or who fails or refuses to comply with such an order, commits an offence.

Measures to be adopted by a local authority in case of infectious diseases.

28. (1) A local authority shall, where in its area of jurisdiction there is a person suffering from an infectious disease, ensure that adequate measures are taken for the prevention of the spread of the infectious disease, including where necessary -

- (i) provision for accommodation;

- (ii) maintenance;
- (iii) nurse care;
- (iv) medical treatment in a hospital (placing in a hospital);
- (v) place of isolation, until patient has recovered or is no longer a danger to the public health; and
- (vi) provision for the removal and burial of the body of the deceased when so deceased of an infectious disease or of other causes.

(2) Subsection (1) shall not be construed as a limitation section in respect of powers of a local authority in suppressing the spread of infectious diseases.

Powers of the Ministry and local authority to order, investigate or carry out disinfection.

29. (1) An authorised local authority shall give a written notice to -

- (i) an owner or occupier of premises; or
- (ii) an owner or person in charge of an article,

in situations where it appears from the certificate or report of a medical practitioner, medical officer or an environmental health officer, the cleansing or disinfection of such premises or article is necessary for -

- (i) preventing the spread of an infectious disease; or
- (ii) eradicating the infection of any infectious disease.

(2) The notice mentioned in subsection (1) shall require the person to whom it is directed, to cleanse or disinfect the premises or article, which shall be specified in the notice, within such time and manner as shall be specified in the notice and the person to whom the notice is directed shall comply with the notice to the satisfaction of the local authority.

(3) Where the person to whom the notice is directed fails to comply with the notice and its terms, the local authority shall, on the expense or account of that person, cleanse, disinfect or cause to be cleansed or disinfected such premises or article and for purposes of certainty, every expense reasonably incurred by the local authority or the person appointed by the local authority shall be a debt and owing, recoverable in terms of this Act or any other law.

(4) Where the owner, occupier or person in charge of the premises or article, subject to the notice mentioned in this section, is indigent or destitute and is unable because of that person's indigence and destitution to comply with the notice, the local authority shall carry out the necessary cleansing or disinfection on the account of that person and write off the debt as bad.

(5) A magistrate may, on application by the local authority, issue an order for the destruction of an article which by its nature or by its present state may not properly be disinfected or cleansed and no compensation shall be payable.

(6) Where a local authority refuses or fails to exercise its powers granted by subsections (4) and (5), any person, fearful of the public health consequences that may result through the inaction of the local authority, may sue the local authority separately or jointly with any other person for specific performance.

(7) Where a local authority is disinfecting or cleansing an article, applying whilst doing so the appropriate methods and measures, and the article is damaged in that process the local authority shall not be liable in law.

(8) For purposes of subsection 7, "appropriate methods and measures" include due care, reasonable precaution and prevention of unnecessary and avoidable damage.

(9) Where a local authority or other person refuses or fails to do what this section permits or requires that local authority or that person to do, the Minister may cause to be done or compel the local authority or such other person or authorise another person to do what ought to be done and recover the expense for so doing from the local authority, or such other person or from whomsoever they are recoverable.

(10) Notwithstanding anything contained in this section the Minister, who is the guardian and custodian of public health matters, may take or cause to be taken any action, subject to the purposes of this Act, necessary and expedient.

Exposure of infected persons and articles.

30. (1) A person who knows or is aware that is suffering from an infectious and incurable disease commits an offence if that person intentionally transmits that disease or infects another person with that disease and the trier of facts may impose a penalty that shall be commensurable with the act or deed and the resultant consequence of the transmission or infection, including the imposition of a penalty of multiple life sentences.

(2) A person commits an offence and liable, on conviction to a penalty that may be provided in this Act or the Minister may provide by regulations, if that person -

- (a) while knowingly is suffering from a notifiable disease or such other infectious disease wilfully or negligently conducts that person's affairs or that of others in such a manner as to transmit or likely or liable to transmit or spread such disease to persons, articles or such other things in any manner whatsoever and in any place, including a street, bush, open land, occupied land, public or private place, building, shop, hotel, liquor bar, church or other place occupied in common by persons other than members of the household to which the sufferer belongs;
 - (b) being in charge of any other person and knowing that such other person is suffering from an infectious disease, exposes or causes the person to spread the disease or puts that person in a position or situation which helps to spread the infectious disease;
 - (c) knowingly, without previous and recent effective disinfection to the satisfaction of a local authority, environmental health officer, or nurse and in accordance with relevant Regulations in force, gives, transmits, removes, exposes infected articles to other persons or sends or permits infected articles to be washed or exposed to public washing places or machines or laundry or other places or things where articles or things are washed or cleansed or introduces infected articles or things to articles or things which are not infected;
 - (d) while knowingly is suffering from an infectious disease handles, conveys or comes into contact with any food, dairy produce, essential drugs, water or any other substance or article intended for human consumption or carries on any trade, occupation or profession in a manner likely or liable to spread or transmit the infectious diseases, whilst not exempted by a medical practitioner or medical officer in writing;
 - (e) being in charge of any person, exposes or causes that person to be exposed to an infectious disease, contaminated article or substance, excreta or other things or substances contaminated with an infection or doing anything in a manner which is likely or liable to cause infection or transmission of an infection to or from the person being in charged of;
- or

- (f) being in charge of a person or attending to that person, fails or refuses to render professional or occupational services or assistance as qualified and required to do by any law, regulation or ethics.

(3) A person who is in charge or attending to another person has a duty of care to that person and a duty and responsibility of rendering to that person at all times, professional and occupational services, care, skill, expertise, cooperation, optimism, confidence and hope and a breach, failure or neglect of these duties and responsibilities shall, under this Act, be an offence, punishable on conviction by a fine not exceeding five thousand Emalangeni or a term of imprisonment not exceeding twelve months and further to any other action that an aggrieved person may institute for damages.

(4) For purposes of subsection (2), a trier of facts may excuse a person from blame worthiness or it may be a mitigating factor, where a person used properly the stipulated protective clothing, proper precaution, proper procedure and followed all applicable rules, procedures and any relevant legislation.

Conveyance of infected persons.

31. (1) The Minister may make regulations -

- (a) prohibiting or regulating the conveyance of certain persons infected with certain and specific diseases in public places, passenger or goods services and public transport;
- (b) prohibiting or regulating the conveyance of deceased persons infected with certain and specific infectious diseases;
- (c) regulating the duties of persons in charge of public places and public transport in respect to the conveyance, storation, and burial of deceased persons or persons infected with infectious diseases;
- (d) regulating the treatment and disposal of substances and articles exposed to or contaminated with an infectious disease; and
- (e) regulating the conduct of persons accompanying, in a public place or transport, a person or deceased person infected or suspected to be or was infected with an infectious disease.

(2) No person shall convey, in a public transport, a deceased person without the permission of the Minister unless such public transport is so authorised.

(3) No person shall convey, introduce or cause to be conveyed or introduced in a public place or transport, articles or substances contaminated, infected or suspected to be contaminated or infected with an infectious disease.

(4) A person suffering from an infectious disease shall take all reasonable precautions to ensure that the infectious disease is not transmitted to any other person or to an article or substance that may be used by another person.

(5) A person suffering from an infectious disease shall at all times have a duty of care towards other persons and the environment, that is to say, freedom from infection from the person with an infectious disease.

(6) No person shall expose another person to an infectious disease.

(7) The Minister may cause to be established isolation units in hospitals or in any other place and further may establish home based care for persons infected with infectious diseases or for persons not infected with any disease.

(8) A person who contravenes any provision of this section, including the regulations but excepting subsection (7), commits an offence and shall be liable to the aggrieved party in damages and to the penalties that may be imposed under this Act.

Prohibition of evacuation or letting of infected premises.

32. (1) No person shall evacuate or let or cause to be evacuated, occupied or let any dwelling, premises or part thereof in which to the knowledge or that person there is or has recently, been a person suffering from an infectious disease, without first having the dwelling, premises or part thereof, including articles and such other substances therein which are liable to retain infection, effectively disinfected to the satisfaction of the local authority, environmental health officer or nurse, and further in accordance with any legislation in force in the area.

(2) Subsection (1) shall apply to a person in charge of, owner of, or keeper of, and to a place or thing which is, a hotel, boarding house, orphanage, prison, hospital, health centre, medical practitioners rooms, surgery, traditional healer's rooms or premises, public transport or other utilities, places and institutions used for and by the members of the public.

Removal of bodies of persons who died of infectious diseases.

33. (1) In every case of death from an infectious disease, the owner occupier or the person in charge of the premises in which the death occurs, shall immediately make the best arrangements practicable to prevent the spread of the infectious disease, pending the removal of the deceased person and disinfection of the place and articles which may have been infected.

(2) No person shall keep a body of a deceased person in a room -

- (a) where that person or any other person lives, sleeps or works; or
- (b) in which food is kept, prepared or eaten,

unless, the Minister has regulated otherwise.

(3) No person shall keep for a period in excess of twenty-four hours a body of a person deceased from an infectious disease in any other place, before burial, other than in a mortuary or other place set aside for the keeping of such dead bodies by a local authority or such other authority recognised by the Minister.

(4) Any person who removes a body of a person deceased from an infectious disease from any place specified in subsection (3) shall, subject to subsections (7) and (8) without fail remove or take that body direct and immediately to a burial place for burial.

(5) The person who is responsible or liable for the burial of a body of a person who died from an infectious disease or any other person shall ensure that the body is buried within twenty-four hours if such body is not kept in a place mentioned in subsection (3) and that person shall further take all necessary precautions to ensure that no infection emanating from the deceased is spread to other persons or articles likely to spread the infectious disease.

(6) No person shall bring into the country a body of a person deceased from an infectious disease, unless measures have been taken to the satisfaction of the Minister, local authority or such other authorised person in respect to the transportation, handling, storage, protection and burying of the body in a manner that would prevent the spread of the infection.

(7) Nothing in this section shall be deemed to prevent the removal, by due authority or person, of a dead body from the place where death occurred or hospital to a mortuary or such place mentioned in subsection (3) or prevent the due operation of any other law in force or court directives.

(8) The Minister may give special or general exceptions to this section and may make regulations of general application in respect to what may or may not be done in the period between the death and burial, including the observance or non-observance of certain customary rites.

Powers respecting the burial and disposal of bodies of persons who died of infectious disease.

34. (1) The Ministry, Director of Health Services, medical practitioner, health officer, Regional Administrator or its successor, magistrate or a police officer of above the rank of inspector, may where -

- (a) the body of a person deceased from an infectious disease or from other causes is kept in a room in contravention to the provisions of section 33; or
- (b) notwithstanding subsection (1), the body of a deceased person is kept in a dwelling place or any other place, in the opinion of the person giving the order, that body is likely to endanger health or public health; or
- (c) a body of a deceased person is found in any region and is unclaimed or is claimed but the person claiming it fails to comply with the Act, or no competent person undertakes to bury it in terms of this Act,

order that the body of the deceased person be removed to a mortuary or such place specified in section 33(3) or order that it be buried within a time to be specified in the order or order for its immediate burial in the case where the body is that of a person who died from an infectious disease and is a threat to public health.

(2) The order or directive under subsection (1) may be directed to a local authority or to a person liable for the burial of the body or to any person capable of burying the body of the deceased and within the terms of the order and the costs for burial shall be borne by the estate of the deceased, failure of which, the local authority and failure of which, the Government of Swaziland.

(3) The costs mentioned in subsection (2) may be recovered by whomever they are due to as a civil debt in preference to other civil debts.

(4) A dispute in respect to the burial of the body of a person deceased from an infectious disease shall not prevent or delay the burial of that body or the compliance of an order issued under this section and any person who obstructs the burial or such order commits an offence and may be liable to both criminal and civil punishments.

(5) Any person who fails or refuses to carry out the duties and obligations imposed on that person by this section commits an offence and shall be liable to the punishment authorised by this Act or its regulations.

Provision of cemeteries.

35. (1) Subject to the approval of the Minister, a local authority, mission hospital, an industrial or commercial estate or such other persons as the Minister may permit, shall have the responsibility and duty to establish and maintain in a suitable land cemeteries and grave yards in the area under the jurisdiction of that entity for the purpose of burial or cremation of bodies of deceased persons.

(2) Any person intending to establish a cemetery or grave yard shall first obtain the Minister's consent, approval or permission to do so and to the site of the cemetery or grave yard as from the date of coming into force of this Act.

(3) The Minister may, for just reasons, refuse the establishment of a cemetery or grave yard on a certain site until an appropriate site to the satisfaction of the Minister is found and also, for just reasons, the Minister may order the closure of an existing cemetery or grave yard.

(4) Where in a given area there exists a cemetery or grave yard and a person intends or is required to bury a deceased person in that area, that person shall bury the deceased person in that cemetery or grave yard or land as provided for that area.

(5) The Minister may make regulations respecting areas or places where there are no cemeteries or grave yards, paying attention to the requirements of public health.

(6) Without prejudice to anything contained in this section, no person, with or without permission or authority, shall establish a cemetery or grave yard in any place, where the cemetery or grave yard shall -

(a) contaminate drinking water, other water for domestic use, under ground water used or likely to be used for human consumption; or

(b) become a public health nuisance or any other nuisance to the public.

(7) Any person who owns or is in charge of or who intends to establish a cemetery or grave yard shall register with the Minister such cemetery or grave yard and the Minister shall keep a master register for this purpose in the Ministry.

(8) The Minister in consultation with other sector agencies may make regulations or orders respecting -

(a) permits and procedures on the exhumation of bodies or remains of such bodies for purposes of holding an inquiry into the causes of death or similar purposes sanctioned by law;

(b) purposes of re-burial, re-covering of graves;

(c) requirements for removal and re-covering of graves; and

(d) the regulation and prohibition of home graves.

(9) Any person who fails or refuses to comply with the provisions of this section commits an offence and is liable to the punishments authorised by this Act.

Powers of Minister to make orders and notices regarding infectious diseases.

36. (1) The Minister may, by orders or notices published in the Gazette regulate -

(a) the prevention, suppression and control of infectious and other communicable diseases; and

(b) conditions necessary or impose requirements to be observed in respect of -

(i) medical examination;

(ii) immunization;

- (iii) isolation;
- (iv) surveillance;
- (v) quarantine; and
- (vi) movement,

of persons infected with an infectious disease or persons likely to be so infected or persons identified and targeted for a public health programme.

(2) A person affected by the order or notice under subsection (1) shall comply with it and if that person fails or refuses to comply with such order or notice that person shall be committing an offence liable on conviction to the penalties authorised in this Act or such order and notice.

Regulations regarding infectious diseases.

37. (1) The Minister may make regulations, published in the Gazette, to be applicable to all infectious diseases or only to such infectious diseases or as may be specified in the regulations, covering all or such areas as may be specified in the regulations and further covering all persons or such identifiable persons or class of persons.

(2) Without prejudice to subsection (1) the Minister, as specified in subsection (1) may make regulations respecting the following matters -

(a) the imposition and enforcement of quarantine measures, or of medical observation and surveillance, in respect of persons suffering or suspected to be suffering from infectious diseases, and who are either removed or not removed to a hospital or place of isolation, and further in respect of -

- (i) the premises in which such persons are accommodated or live in;
 - (ii) the persons in charge of or in attendance on the persons infected or suspected to be infected; and
 - (iii) such other persons living in or with or visiting such infected or suspected to be infected persons or premises;
- (b) the duties of owners and of employers of labour, of chiefs and of any local authority, in respect of infectious diseases, their prevention, suppression and eradication, and of the persons infected or suspected to be infected or likely to be infected;
- (c) the measures to be taken for the prevention of the spread of or eradication of cholera, typhoid fever, plague, acute poliomyelitis, tuberculosis or any infectious disease requiring to be dealt with in a special manner;
- (d) the conveyance by road, rail or otherwise of persons suffering from, or the dead bodies of persons who died of, an infectious disease;
- (e) the prevention of the spread of diseases from or transmitted from animals, carcasses and animal products to human beings, including rabies, glanders, anthrax, plague, tuberculosis, trichinosis and other diseases communicable to human beings from or originating from animals, carcasses and animal products;

- (f) the prevention of the spread and eradication of malaria, the destruction of malaria carrying mosquitoes and the removal of conditions permitting or favouring, or the improvement of conditions not permitting or favouring, the multiplication or prevalence of mosquitoes;
- (g) the provision and proper upkeep of mosquito nets in places where the Minister thinks necessary, especially in sleeping apartments in hotels, boarding houses, lodging houses and public buildings where persons are accommodated for payment;
- (h) the prevention of the spread of diseases by flies or other insects and the destruction of and the removal of conditions permitting or favouring, or the improvement of conditions not permitting or favouring, the multiplication or prevalence of such insects;
- (i) the destruction of rodents and other vermin and the places favouring the harborage or multiplication of rodents and other vermin;
- (j) the prevention of the spread of bilharziasis or other diseases caused in human beings by an animal or vegetable parasite;
- (k) the prevention of the spread of any infectious, contagious or loathsome disease caused by or related to the carrying on of a business trade or occupation;
- (l) the prevention of the spread of any infectious diseases by persons (commonly referred to as carriers) who, though at the time may not be or appear not to be suffering from the disease but are carriers or are liable to disseminate the infection of the disease, and the keeping under medical surveillance and the restriction of movement of such persons if need be;
- (m) the prohibition of spitting in public places and public transport except spitting into a receptacle provided and used for that purpose;
- (n) the regulation and restriction of trade or occupation entailing danger or special danger to public health or only to health of the persons engaged in that trade or occupation, whether from infectious disease or otherwise and the institution of measures for preventing or limiting the danger;
- (o) cleansing facilities, cleansing of dirty or verminous persons, disinfection or fumigation of clothes, premises, substances and other articles which are, or have been exposed to an infectious disease or believed to be contaminated with an infection of an infectious disease, or which are dirty or verminous, and prohibiting the carrying out of fumigation which involves the use of poisonous gas except under licence and permission from the Minister;
- (p) the regulation of rag flock manufacturing, sale or trade and any trade in second-hand clothing, bedding or such similar articles or substances including trade in bones, hides and similar articles and substances and further regulating and requiring the disinfection of some or all of the articles and substances before their importation, entry, removal, sale or exposure for sale or use in any manner including the manufacturing process;
- (q) the disposal of refuse, waste or other matter or thing which has or may have been contaminated with or exposed to infection of an infectious disease;
- (r) the regulation, restriction or, where deemed necessary, the prohibition of the keeping, transmission or use within or in the conveyance or transmission into or out of Swaziland of cultures or preparations of or pathogenic micro-organism or other materials and substances capable of causing a disease in a human being;

- (s) the compulsory provision of information or production of documents or other information or evidence which may be relevant or not relevant but required for the purpose of tracing an infectious disease, or its source or for the prevention of the spread of an infectious disease; and
- (t) generally for the better carrying out of the provisions and the attainment of the objects and purposes of this Part.

Diseases subjects to International Health Regulations.

38. The provision of this Part or Act shall, unless otherwise stated in so far as they relate to diseases subject to International Health Regulations, mean or deemed to apply to -

- (a) plague;
- (b) cholera;
- (c) yellow fever;
- (d) epidemic influenza;
- (e) Marburg disease;
- (f) lassa fever;
- (g) ebola;
- (h) any other disease, which the Minister may, by notice published in the Gazette, declare to be subject to International Health Regulations for the purposes of this Act.

Notification of suspected cases of diseases subject to International Health Regulations.

39. (1) Every person, including a medical practitioner, medical officer, nurse, environmental health officer, health institution, head of a family or household, an employer, owner or occupier of land or premises, a chief, an indvuna, umgijimi (a chief's runner or messenger) shall report to the Director of Health Services or in default to an environmental health officer who shall report to the Director of Health Services the occurrence of any case of illness or death coming to their notice which is or may be suspected to be due to a disease subject to the International Health Regulations, or of a case, with a history or presenting symptoms or post-mortem appearances, which may reasonably give grounds for such suspicion.

(2) Any person who refuses or fails to comply with this section commits an offence and is liable, on conviction, to a fine not exceeding one thousand Emalangeni default to imprisonment for a period not exceeding one month or to both fine and imprisonment.

Reporting of diseases subject to International Health Regulations by facsimile or any other fastest means.

40. (1) Every medical officer, medical practitioner, environmental health officer, regional medical officer or such person, to whom a notification or report has been made in respect of a disease subject to International Health Regulations, shall immediately report same to the Director of Health Services by facsimile or other expeditious means the particulars of every notification received by such person, authority or institution.

(2) Subsection (1) shall also apply in the case of any unusual sickness or mortality to human beings and to animals.

Powers of Minister where local authority fails to deal adequately with diseases subject to International Health Regulations.

41. (1) Where, upon the report of the Director of Health Services, it appears to the Minister that an outbreak of a disease subject to International Health Regulations, or a disease suspected of being such, has occurred or is threatened within the region of a local authority and is not being investigated or dealt with effectively, adequately or efficiently to safe-guard public health, the Minister may, subject to this Act, do anything or action which may help to achieve the objectives of this Act, being the provision, promotion and the application of public health.

(2) Without prejudice to subsection (1) the Minister, notwithstanding any other provision of this Act, may inform the local authority of the measures which the Minister considers should be taken in that respect, and if the local authority fails or is for any reason unable to forthwith carry out such measures to the Minister's satisfaction, the Minister may through the Ministry take up, or authorise any other person or institution to take up, all the necessary steps for dealing with the outbreak or threatened outbreak.

(3) The Ministry or such authorised person under subsection (2) shall thereupon possess all rights and powers of that local authority in that region in as far as respecting the purposes of subsection (2), subject to the obligation attachings to the exercise, which in case of a dispute or conflict, shall be determined by the Minister in default of a relevant provision in this Act.

(4) Any expenditure or portion thereof so incurred which is payable by that local authority may be recovered from the local authority as a civil debt, set-off, deduction from rates, subsidy, rents or in any manner provided in this Act or other law.

Notification of sickness or mortality in animals due to zoonosis diseases.

42. (1) Every person who becomes aware of any unusual sickness or mortality in rats, mice, cats, dogs or other animals susceptible to plague or other disease subject to International Health Regulations, not due to poison or other obvious cause, shall immediately report the fact to the Director of Health Services, environmental health officer, health officer, Director of Veterinary Services or veterinary health officer.

(2) Every person who contravenes or fails to comply with this section commits an offence.

Powers of Minister and local authorities to requisition buildings, equipment, vehicles and other articles to suppress disease outbreaks.

43. (1) Where an outbreak of any disease subject to International Health Regulations exists or is threatened, the Minister may authorize any local authority, regional medical officer or such other person to requisition from -

- (a) any person owning or having charge of any land or any building not occupied as dwellings; or
- (b) any person owning or having charge of tents, vehicle, transport, bedding, hospital equipment, drugs, food or other appliances, materials or articles,

urgently required in connection with the outbreak, to hand over the use of any such land, building or such things specified in paragraph (b) or to supply or make available any such things specified in this subsection subject to the payment of a reasonable amount as hire or purchase price.

(2) Any person mentioned in this section who, without reasonable and compelling cause, fails or refuses to comply with such requisition, request or requirement commits an offence.

Appointment of an epidemic committee or task force.

44. (1) Where it is deemed desirable for the purpose of co-ordinating effort or otherwise for more effectively dealing with or preventing an outbreak of any disease subject to International Health Regulations, the Minister may by notice published in the Gazette appoint and constitute a committee or task force to be termed an "epidemic committee" or such other designation or terminology.

(2) The committee shall be for a defined area or region and shall discharge and carry out such duties and functions as it may be given by the Minister or Director of Health Services in connection with the outbreak.

(3) Notwithstanding subsection (2) the Minister may in the notice of appointment or by a subsequent notice delegate some of the powers of the Minister or some other powers as the Minister may determine in connection with and solely for the outbreak to the committee or task force.

(4) The Minister shall make regulations in respect of the manner in which the committee or task force shall conduct its activities and the way it shall relate to the persons it deals with and the manner in which the committee or task force shall keep its books of accounts and any other matter the Minister believes is relevant and necessary for the purposes of the committee or task force.

(5) For purposes of the committee or task force to effectively carry out its functions and duties, the Minister shall ensure the committee or task force is reasonably funded from the Consolidated Fund or other funds that may be available to the Minister.

Advances to local authorities and other bodies.

45. (1) The Minister, after consultation with the Minister responsible for Finance and the Minister responsible for local authorities, may authorise money advances on such terms as the Minister may fix to a local authority, organization, institution, an epidemic committee or task force for the purpose of dealing with an outbreak of an infectious disease or disease subject to International Health Regulations.

(2) In default of payment of an advance made under this section the Minister may recover such monies in terms of procedures set out in various sections of this Act or in any other manner permitted by law.

(3) The Minister may in addition to and in like manner to subsection (1) authorise money advances to a local authority, organization, institution, an epidemic committee or task force to enable it to pay any proportion of the capital expenditure incurred by it in providing suitable hospitals or places of isolation for persons suffering from any infectious disease or disease subject to International Health Regulations and may recover any advance so made as provided in subsection (2).

Protection of Government property.

46. Any Government stores, monies or property of whatever description, shall not be liable to any attachment or execution either by court process or otherwise and, notwithstanding in whose possession it is found, including satisfaction of a judgement debt or obligation, that is, Government property shall always remain Government property until specially released by Government.

Refunds to a local authority and other bodies.

47. (1) The Minister may authorise a refund subject to subsection (2) of the whole or part of an approved net cost, actually and necessarily incurred by a local authority or other body in providing and equipping an isolation hospital or other isolation accommodation for persons suffering from any infectious disease or detained under medical observation because of exposure to an infection of any disease subjects to International Health Regulations.

(2) The Minister shall, for the refund to be made or earned, first approve the scheme as a whole and the plans, specifications and estimates in connection with the scheme or operation envisaged in subsection (1) before any expenditure or liability is incurred and without which no liability or obligation shall attach to the Minister or Government.

(3) The Minister may authorise a refund of the whole or part of an approved net cost actually and necessarily incurred by a local authority or other body in connection with -

- (a) the management and maintenance of an isolation hospital or other isolation accommodation; or
- (b) the maintenance and treatment in that hospital or other hospital or place of isolation,

for persons suffering from any infectious disease or detained under medical observation because of exposure to the infection of any disease subject to International Health Regulations, such net costs being determined after deduction of any revenue.

(4) The Minister may authorise a refund of the whole or part of an approved net cost actually and necessarily incurred by a local authority or other body in preventing, investigating, dealing with or suppressing any outbreak of any disease subject to International Health Regulations or any outbreak suspected on reasonable grounds to be of any such disease, including where necessary, the provision of temporary isolation hospital accommodation.

Regulations regarding diseases subject to International Health Regulations.

48. (1) The Minister may, in the case of the occurrence or threatened outbreak of any disease subject to International Health Regulations, make regulations, by notice published in the Gazette, in all or any of the following matters -

- (a) the imposition and enforcement of quarantine, and the regulation and restriction of public traffic and of the movement of persons;
- (b) the closing of schools, institutions and public assemblies or gatherings, or the regulation and restriction of attendance to such schools, institutions, public assemblies or gatherings;
- (c) the regulation, restriction or closing of any place of public entertainment, recreation or amusement or place of worship or such place where intoxicating liquor is consumed and such similar places;
- (d) the prevention and remedying of over-crowding or the keeping of any dwelling or other building or the contents thereof in a dirty or insanitary or verminous condition;
- (e) the medical examination of persons who are suspected of being infected with or who may have recently been exposed to the infection of, such disease, and of persons about to depart from an infected area and the disinfection of their baggage and personal effects;

- (f) the detention of such persons, mentioned in paragraph (e), until they have after such examination, mentioned in that paragraph, been certified to be free from any infectious disease and until their baggage and personal effects have been disinfected;
- (g) the keeping under medical observation or surveillance, or removal, detention and isolation of persons who may have recently been exposed to the infection of, and who may be in the incubation stage of, such disease;
- (h) the detention and isolation of such persons, mentioned in paragraph (g), until released by the authority which detained them or by some other person with due authority and the use of force and guards for the purposes of paragraphs (g) and (h) and, in the case of absolute necessity, the use of firearms or other weapons, and the arrest without warrant of any person who has escaped from such detention or isolation;
- (i) the establishment of isolation centres or hospitals and the establishment, management and control of convalescence homes, centres, hospitals or similar institutions for the accommodation of persons who have recovered from diseases subject to International Health Regulations;
- (j) the removal and isolation into the institutions mentioned in paragraph (i) of persons who are or are suspected to be suffering from any diseases subjects to International Health Regulations and their accommodation, classification, care and control of such persons and their detention until discharge by the person who detained them or such other person with due authority when recovered and free from infection;
- (k) the inquiries into the cause of death of any person, apart from an inquiry by a court as provided by another law, and -
 - (i) the ordering, when deemed necessary, of post-mortem examinations or of exhumations;
 - (ii) the prohibition, in special circumstances, of the burial of any deceased person except on a certificate by a medical officer appointed to grant such certificates or after compliance with any other special conditions;
 - (iii) the regulation of the mode of disposal, the times and places of burial of such deceased persons; and
 - (iv) the manner of conducting removals and burials of such deceased persons.
- (l) the regulation and restriction and, if deemed necessary, the prohibition of the removal of merchandise or any articles, substance or thing into, out of or within any specified or defined area or region;
- (m) the provision of disinfecting plant or equipment and the disinfection, or where disinfection is impossible, the destruction of any article, substance or thing, or the disinfection of any premises which are believed to be contaminated with an infection subject to International Health Regulations;
- (n) the inspection of premises, articles or substances and the discovery and remedying of sanitary or other defects likely to favour or encourage the spread of, or render difficult the eradication of, diseases subject to International Health Regulations;

- (o) the evacuation, closing, alteration or, if deems necessary, the demolition or destruction of any part or whole of premises the occupation or use of which is considered likely to favour or encourage the spread of, or render more difficult the eradication of, diseases subject to International Health Regulations;
- (p) the definitions of the circumstances under which compensations may be paid in respect of any premises demolished or destroyed in terms of paragraph (o) and the manner of fixing such compensation;
- (q) in the case of plague, the destruction of rodents and the removal or improvement of conditions likely to favour or encourage the harbourage or multiplication of rodents, and the disposal of the carcasses of rodents or other animals believed or suspected to have died of plague,

and in such other matters as the Minister may deem necessary for preventing the occurrence of such diseases or limiting or preventing the spread of such diseases or for their eradication and generally for the better carrying out and attaining the objects and purposes of this Part.

(2) An authority or such authorised person administering the regulations made under section (1) shall use a just and reasonable discretion in the case of persons, if the regulations are silent on the issue, about to leave Swaziland, and in the case of persons entering Swaziland and on transit to another country the regulations shall not apply provided such persons do not disembark.

Offences and penalties.

49. (1) Any person who contravenes a provision of the regulations made under section 48 commits an offence and on conviction shall be liable to a fine specified in such regulations or to a fine not exceeding four thousand Emalangeni which ever is greater, and in default of payment of the fine, to a period of imprisonment not exceeding one year and in addition to the foregoing, in the case of a continuing offence, to a further fine not exceeding one hundred Emalangeni or such fine specified in the regulations, whichever is greater, for every day during which the contravention continues after the date of notification of the contravention by the person administering the regulations, or to further imprisonment for the number of days the court may determine.

(2) A person who contravenes any provision of this Part, which is not dealt with under subsection (1), commits an offence and is liable, on conviction, to similar punishments as specified under subsection (1).

PART IV: MENTAL HEALTH

Mentally disordered persons.

50. (1) For the purposes of this Part, unless the context otherwise requires -

“mentally disordered or defective person” means any person who, in consequence of -

- (i) mental disorder;
- (ii) permanent defect of reason or mind (congenital or acquired);
 - (a) is incapable of managing oneself or that person’s affairs; or
 - (b) is a danger to oneself or other persons or property; or

- (c) is unable to conform with the ordinary usages, or the way of life, of the society in which that person lives; or
- (d) requires supervision, treatment and management; or
- (e) if that person is a child, appears by reason of such defect to be permanently incapable of receiving proper benefit from instruction from home or any ordinary place of learning;

“mental patient” means -

- (a) a person who is mentally disordered or defective; or
- (b) a person concerning whom proceedings are necessary to determine whether or not that person is suffering from mental disorder or defect,

but does not include a person detained, in an institution or elsewhere as insane or mentally disordered or defective, by an order of a court in a criminal case or matter.

(2) Any person responsible for the administration of this Part or part of this Part and qualified so to do, shall classify or ensure that mental disorders or defects are classified, appropriately so, as follows -

- (a) mentally disordered or defected;
- (b) mentally infirm;
- (c) idiot;
- (d) imbecile;
- (e) feeble minded person;
- (f) moral imbecile; and
- (g) mental disorders secondary to medical disorders.

Duties of the Chief Psychiatrist.

51. The principal duties and functions of the Chief or Principal Psychiatrist or whatever designation is used shall be to -

- (a) coordinate, monitor and control all activities in respect to mental health;
- (b) advise the Director of Health Services on mental issues, training and appointment of suitable staff to carry out mental health work;
- (c) ensure the mentally disordered or defective persons are taken care of as human beings and treated well, both medically and socially in a manner that is more humane;
- (d) implement and enforce all current legislation on mental health or incidental to mental health; and
- (e) ensure outdated legislation is revised to encompass or reflect current thinking and practice and further set current and acceptable standards on the care and treatment of the mentally disordered or defective persons.

Establishment of mental health institutions.

52. (1) There shall be established special hospitals, institutions, or centres to treat and care for the-

- (a) mentally disordered or defective persons; and
- (b) mentally disabled persons.

(2) The Minister may, at the health institutions or centres that are not for mental patients, ensure that special wards are set aside for the care and treatment of the mentally disordered or defective persons.

Detention in hospital of mental patients.

53. (1) No person shall be detained in an institution or elsewhere on the ground of being a mentally disordered or defective person, except -

- (a) as provided by this Act or by other law in force;
- (b) by an order issued by a competent court in a criminal prosecution or matter;
- (c) by an order issued by a competent court on application by the Minister, Director of Health Services, Commissioner of Police or the prison services (or whatever name its known), any person who shall first prove sufficient interest acceptable in law or any person so designated by the Minister for the purpose of this section;
- (d) on reception as a mental patient from another State or institutions;
- (e) as a voluntary patient, who is aware of the mental illness and voluntarily seeks mental health care from a medical or health institution;
- (f) as an emergency patient, who is a danger to oneself or to others and is brought in by the police, relative, the Director of Medical Services, the person designated by the Minister under paragraph (c) or a person who may prove sufficient interest acceptable in law.

(2) The person or patient named in paragraph (d) of subsection (1) shall not be admitted unless the admittance is in accordance with regulations specifically made by the Minister and which shall specify which States or institutions may be affected by the regulations.

(3) A child who is under the age of ten years or is apparently under the age of ten years, shall not be admitted at a mental hospital, centre or institution as a residence if in that hospital, centre or institution there is no unit set aside for children.

Rights of mental patients.

54. (1) It shall be the responsibility of the person in charge of the hospital, institution or centre and the person in whose custody or charge the mentally disordered or defective person is placed for care and treatment, that such patient receives timeously such care and treatment and that the mental patient or the mentally disordered or defective person is not ill-treated or subjected to inhumane treatment or behaviour.

(2) A mental patient or the mentally disordered or defective person shall enjoy such rights as are universally accepted and afforded under international law or conventions and shall be at liberty to request and receive a discharge, provided both the medical practitioner or medical officer attending to the mental patient and the mental patient are both satisfied that the condition of the mental patient warrants a discharge.

Assessment of medically suspected mental patients standing trial in the courts of law.

55. (1) Any person, who is or is about to stand trial in a court of law and if in the opinion of the court such person needs or ought to undergo a mental disorder or defect assessment, the court shall order that such person to undergo such assessment or observation assessment at a recognised mental health hospital, institution, or centre by a qualified and registered psychiatrist.

(2) The person, required to undergo an assessment, shall be assessed or observed by a medical practitioner or medical officer who is further a psychiatrist.

(3) The period of assessment or observation shall not be less than twenty-eight days, running consecutively, from the date of the first day of assessment or observation.

Powers of the Minister to make orders and regulations.

56. (1) The Minister may make orders or regulations in respect of -

- (a) the establishment and functions of a Mental Hospital Board or such similar body or bodies;
- (b) the transfer, conveyance and detention of mental patients, aged persons, children and mentally retarded persons or temporarily mentally disturbed persons;
- (c) various forms to be used for the purposes of this Part or other related legislation;
- (d) the manner in which a hospital, health centre or similar institution or any other place of detention of mental patients, aged persons, mentally retarded persons and children other than a prison, shall conduct itself and the manner in which the patients or inmates shall be treated and the expected behaviour of the patients and the other inmates;
- (e) the procurement and the appropriate prescription of curative drugs;
- (f) the requirement for mental hospitals, health centres and such like institutions to provide or for the provision of separate wards for the aged persons, children, drug abusers and mentally retarded persons who need or who may need rehabilitation;
- (g) the establishment and administration of a specialised forensic psychiatric unit, after consultation or in conjunction with the Ministry of Justice and the Ministry responsible for Correctional Services or the Prison Services; and
- (h) any other thing the Minister reasonably believes may or ought to be done or regulated under this Part.

(2) The Minister may, in consultation with the Minister responsible for finance, make orders or regulations in respect of fees charged in respect of patients or inmates in hospital, health centre and other similar institutions.

Offences and penalties.

57. (1) A person who contravenes any provision of this Part or any regulation made under this Part commits an offence and is liable, on conviction, to a fine not exceeding one thousand Emalangeni or to imprisonment for a period not exceeding six months.

(2) The fine specified in subsection (1) may, by notice published in the Gazette, be amended by the Minister.

PART V: SEXUALLY TRANSMITTED INFECTIONS

Sexually transmitted infections.

58. (1) The provisions of this Act, in so far as they relate to or concern sexually transmitted infectious or diseases, unless otherwise expressed, shall apply or deemed to apply to -

- (a) syphilis;
- (b) gonorrhoea;
- (c) gonorrhoeal ophthalmia;
- (d) soft chancre;
- (e) venereal warts;
- (f) venereal granuloma;
- (g) genital herpes;
- (h) HIV/AIDS;
- (i) any other such infection or disease, the Minister may, by notice published in the Gazette, declare.

(2) Notwithstanding the fact that a person so detained in a hospital or place of accommodation provided has that person's sentence expired, a medical officer or practitioner attending to that person may detain that person for a specified and renewable time in a hospital or such place of accommodation after the expiration of sentence, the underlying reason being the consideration for public health.

(3) Any person so detained in a hospital or place of accommodation who escapes from such lawful custody commits an offence and shall be dealt in accordance with the law respecting escaping from lawful custody and in addition the court may make relevant orders as it deems fit.

Duties of Health practitioners.

59. (1) In this Part, unless the context otherwise requires -

"health practitioner" includes a medical officer, medical practitioner, pharmacist, nurse, traditional healer and any other person, the Minister may, by notice published in the Gazette, designate as a health practitioner.

(2) Every health practitioner who attends, dispenses drugs to, or advises any patient in respect of any sexually transmitted infection or disease from which the patient is suffering shall -

- (a) advise or direct the attention, of the patient to the infectious nature of the disease and the penalties prescribed by this Act for infecting any other person with such infection or disease;
- (b) advise and warn the patient, if not already married, against contracting a marriage unless and until the patient has been cured of such infection or disease or is free from such an infection or disease in a communicable form;

- (c) give to the patient such information and education on safe sex, treatment of sexual infection or disease and give an informed education and information on the responsibilities, obligations and duties of persons suffering from a sexual infectious diseases in relation to other persons and further direct the patient to seek such further information or counselling from the Ministry; and
- (d) advise the patient, to disclose the name or names of, and to bring or persuade, the patient's sexual partner or partners to undergo a medical examination or treatment.

(3) Every health practitioner who knows or has reason to believe that any person is suffering from a sexually transmitted infection or disease in a communicable form and is not under treatment by a health practitioner, or is not attending for medical treatment regularly as prescribed by such health practitioner, shall -

- (a) if the health practitioner feels it is reasonable to do so, call and counsel such person, failure of which;
- (b) inform the Director of Health Services or the Minister, either of whom, may order the detention of such person, on such terms and conditions, in a hospital or such similar institution for purposes of medical treatment of the sexually transmitted infection or disease.

Transmission of infection an offence.

60. (1) Any person who knows or ought to know is suffering from a sexually transmitted infection or disease transmits or wilfully transmits or negligently or recklessly transmits or conveys to, or infects with, such sexually transmitted infection or disease, another person, or does or permits or suffers any act likely to lead to the infection of any other person with a sexually transmitted infection or disease, commits an offence and subject to subsection (2), shall be liable, on conviction, to a fine not exceeding five hundred Emalangeni or to imprisonment for a period not exceeding six months.

(2) The punishments specified in subsection (1) shall be applicable to persons who provided the other party legally consented to the sexual intercourse and shall not be applicable to persons who are also charged or may be charged or are chargeable under the criminal justice or with a criminal prosecution.

(3) Any person, who knows is suffering from the acquired immuno deficiency syndrome, commonly referred to as AIDS, or who has tested positive to the existence of such disease in that person's body, and transmits, conveys or infects another person with such disease or agents that carry such disease, or who does or permits or suffers any act likely to lead to the infection of any other person with such disease or agents carrying such disease or cells likely to develop to such a disease, commits an offence and is liable, on conviction, to life imprisonment and in addition to the life imprisonment, liable to compensate the infected person of an amount to be determined by a court of law.

(4) Any person who is convicted of a sexual offence, such as rape, indecent assault, sodomy, incest and others, who while engaged in the unlawful sexual intercourse with the victim, infects the victim with the acquired immuno deficiency syndrome shall, in addition, be sentenced to death and the Criminal Procedure and Evidence Act, shall be applicable and in addition to the sentences shall be liable to compensate the victim of an amount to be determined by a court of law.

(5) Any person who is convicted of a sexual offence, such as rape, sodomy, incest or indecent assault, who while engaged in the sexual intercourse with the victim, infects the victim with any of the sexually transmitted infections or diseases specified under section 58 shall in addition to the sexual offence, be liable to a fine not exceeding ten thousand Emalangeni, which fine the Minister by notice published in the Gazette may amend, or in default of payment, to imprisonment for a period not exceeding six years.

(6) Where a person is acquitted of the sexual offence and it is found that the acquitted person did infect the victim with a sexually transmitted infection or disease, the acquitted person shall be tried for unlawfully infecting that person with a sexually transmitted infection or disease and the punishments shall be those found in subsections (4) and (5), whichever is applicable.

(7) The enquiry and trial respecting the part of infecting another person shall be conducted in the strictest confidentiality and in camera, and the identity or any matter or thing that may reveal the identity of the victim shall not be disclosed.

Detention, treatment of sentenced infected persons.

61. (1) Where any person sentenced to imprisonment under this Act or any other law is suffering from a sexually transmitted infection or disease or from any other communicable disease in a communicable form, that person, may pursuant to a written order of a magistrate or written order of a medical officer attached or contracted to the or Correctional Services, be removed to a hospital or special ward or other place of accommodation provided.

(2) The infected person mentioned in subsection (1) shall be detained, in such mentioned place, under medical treatment and afforded the necessary treatment until cured or, subject to subsection (3) and (4), expiry of sentence.

(3) The person mentioned in subsection (2) shall not be released from the hospital or place of detention, unless -

- (a) the health practitioner treating the person is satisfied that the public health can otherwise be safeguarded against infection; and
- (b) that the person if released, when not fully cured, shall undergo treatment under the strict supervision of a medical officer or medical practitioner; and
- (c) the release is lawful and takes into account the terms and conditions of the order of imprisonment issued by a court of law.

(4) Notwithstanding the fact that a person so detained in a hospital or place of accommodation has that person's sentence expired, a medical officer or practitioner attending to that person may detain that person for a specified and renewable time in a hospital or such place of accommodation after the expiration of the sentence, the underlying reason being the consideration for public health.

(5) Any person so detained in a hospital or place of accommodation who escapes from such lawful custody commits an offence and shall be dealt with in accordance with the law respecting escaping from lawful custody and in addition the court may make relevant orders as it deems fit.

Certain infected persons may not be detained.

62. No person shall be detained in a hospital or other detention accommodation for sexually transmitted infection or disease, if -

- (a) that person does not or no longer suffers from such disease or infection; or

- (b) that person cannot or is unable to transmit, directly or indirectly, such infection or disease through that person's own act or by another person's act; or
- (c) medically and scientifically such person is unable to transmit or infect another person; or
- (d) that person does not have at that person's disposal the necessary tool, equipment or parts of the body or thing necessary for the transmission to or conveying to or infecting, another person; or
- (e) the person undergoes medical treatment for the sexually transmitted infection or disease as prescribed by a health practitioner and that health practitioner is of the opinion that the person should not be detained.

Examination of females by female health practitioners.

63. Where an order is made under this Part requiring the medical examination of any female over the age of twelve years and such female desires to be examined by a female health practitioner, such examination shall, if a female health practitioner is reasonably available, be made by a female practitioner.

Other rights of detained persons under this Part.

64. (1) A person detained under this Part shall be entitled to arrange, at that person's expense, for that person's examination by a medical practitioner of that person's choice.

(2) A report of such examination shall be given or furnished to the Director of Health Services, who may act upon it or order further examinations to be made by the first mentioned medical practitioner or any other health practitioner of the choice of the detained person or of the Director of Health Services.

Proceedings to be in camera and reports not to be published.

65. (1) Proceedings and enquiries under this Part before a Commission of Enquiry or before a court of law shall be secret and conducted in camera and the records and reports shall be kept in a confidential manner and not be published for public consumption, unless the Minister or court directs in writing otherwise.

(2) Any person publishing such inquiry or records or reports contrary to this section commits an offence and any unauthorised person found in possession of such records or reports commits an offence, and any person convicted for contravention of this subsection shall pay a fine not exceeding one thousand Emalangeni; which fine the Minister may by notice published in the Gazette amend, or shall, in default of payment of the fine, be imprisoned for a period not exceeding six months.

(3) Any person divulging the name of the infected person or divulging the nature of the charge or evidence or the contents of such report, certificate, documents or order respecting the inquiry or proceedings if by so doing the identity of the victim or infected person shall be exposed or divulged or any other matter coming to the knowledge of that person in connection with anything arising out of the proceedings or under this Part that is likely to injure and expose the identity of the victim or the infected person to an unauthorised person commits an offence and shall be liable, on conviction, to a fine not exceeding a sum of one thousand Emalangeni, which fine the Minister may by notice published in the Gazette amend, or to imprisonment to a period not exceeding six months.

(4) Any person who, without lawful justification or excuse, falsely alleges that a named person has infected another person or the named person is suffering or has suffered from a sexually transmitted infection or disease, including the acquired immuno deficiency syndrome, commits an offence and on conviction, shall be liable to the punishments found in subsection (3) and the conviction or sentence shall not be a bar to further remedies or compensation for damages under civil proceedings.

(5) Any person with sufficient interest, including the Minister or the Director of Health Services who need not have sufficient interest, may start or cause to commence the proceedings mentioned in subsection (1), by, either -

- (i) moving an application in the magistrate's court; or
- (ii) if not the Minister, requesting or petitioning the Minister to set up such proceedings.

(6) This section shall not apply to publications by the Ministry, a local authority, hospital or such similar body, in the discharge of its lawful duties or to any society or person acting with the authority of the Minister and provided the named persons and entities strictly observe the non violability of the person's rights to personal security and unwarranted attack of the dignity of that person.

Prohibition on publication of advertisements of cures.

66. (1) For purposes of this section, unless the context otherwise requires -

“advertisement” or “statement” includes any paper, board or bill board, electronic media, graphics, document or book containing any such advertisement or statement.

(2) No person shall publish any advertisement or statement intended to promote the sale of any medicine, appliance or article for the alleviation or cure of any sexually transmitted infection or disease or any disease affecting the generative organs or functions, or of sexual impotence, or of any complaint or infirmity arising from or relating to sexual intercourse.

(3) No person shall publish any such advertisement or statement in any document, board or bill board, paper, newspaper or electronic media or such similar facility or thing,

(4) No person shall, by word of mouth, drawing, conduct, graph or in any other manner, deliver, offer or exhibit such advertisement or statement to the public or public view in any place.

(5) No person shall deliver, offer or exhibit such advertisement or statement to any person in any street, public place or public conveyance or any where and in any place.

(6) No person shall sell, offer, show, receive or send by post, telephone, telex, facsimile or by electronic medium, satellite or via satellite such advertisement or statement and for purposes of this subsection, for an offence to have been committed, it shall not be necessary to identify or prove the existence of the intended audience, recipient or consumer of such advertisement or statement.

(7) This section shall not apply to publications or statements by -

- (a) the Ministry;
- (b) a local authority;

- (c) a public hospital;
- (d) a public body in the discharge of its lawful duties; or
- (e) any society or person acting with the authority of the Minister first obtained;

(8) The section shall further not apply to books, documents or papers published in good faith for the advancement of medical science by persons or institutions recognised by the Minister or by any other legislation concerned with the regulation of medical science, research or medical supplies.

Provision of facilities of diagnosis and treatment of sexually transmitted diseases.

67. The Minister, subject to regulations which the Minister is empowered or authorised to make, and which may deal with the procedure to be followed, the conditions to be followed or complied with and any other matters necessary for the proper carrying out the provisions of this section, may -

- (a) provide, in Government or other laboratories, facilities or the requirement for facilities for carrying out bacteriological or other laboratory examination for the purpose of ascertaining whether a person is suffering from or is cured of any sexually transmitted infection or disease, or is free from any such infection or disease in the communicable form;
- (b) make provision for, where necessary or where the person is indigent, free treatment, accommodation and maintenance for persons suffering from sexually transmitted infections or diseases;
- (c) provide for the provisions in paragraph (b) to be made as far as is practicable in connection with general or isolation hospitals or similar institutions by arrangement with the institution or hospital, local authority or other authority or body concerned.
- (d) supply free of charge such remedies or things as may be specified from time to time in the Gazette for the prevention or treatment of infections or diseases, that is, sexually transmitted infections or diseases;
- (e) establish and maintain, where practicable, special accommodation for the maintenance and treatment of persons suffering from sexually transmitted infections or diseases or such similar diseases including the acquired immuno deficiency syndrome;
- (f) make grants-in-aid, subject to such conditions as the Minister may in each case fix or determine, to local authorities or other public bodies or voluntary societies or associations for the purpose of preventing the spread of or ensuring the proper treatment, care and accommodation of persons suffering from sexually transmitted infections or diseases and other diseases including the acquired immuno deficiency syndrome;
- (g) establish home based treatment and out-patient treatment for persons suffering from sexually transmitted infections or diseases and any other disease including the acquired immuno deficiency syndrome.

Protection of boy child, girl child and person from forced sex.

68. (1) The Minister shall make provisions to facilitate free medical examination and treatment of any boy - child, girl - child or any person woman who without consent has been subjected to forced sex by any person to ascertain, for the examination part of this Part, whether or not the person subjected to forced sex has been infected with any sexually transmitted infection or disease or any disease mentioned in this Part as a result of the forced sex.

(2) Any person who knowingly and willingly, in any place, force a boy - child, girl-child or woman to have sex with that person commits an offence and shall be tried and punished as prescribed under section 60 and if section 60 is found to be inadequate in any respect, the court shall permit it to be supplemented by any other relevant law and any inconsistency in the laws shall not prevent the court to pass a deterrence or punitive sentence reflective of the objectives of this Part or Act.

(3) The court shall, in addition, order the person found guilty of forcing the other person to sexual intercourse or the person who, whilst forcing the other person, infected the other person, to pay in addition to any other damages the costs of such examinations and treatment.

Regulations respecting sexually transmitted infections and diseases.

69. (1) The Minister may make regulations -

- (a) prescribing forms, certificates, notices, orders or returns and books of record to be used in connection with sexually transmitted infections or diseases and defining the information to be furnished therein and manner of use by courts, health practitioners and other authorised persons;
- (b) conferring powers and imposing duties on relevant officers and other persons, including health practitioners in respect of sexually transmitted infections or diseases;
- (c) providing for the effective enforcement of this Part and adapting this Part or any other Part and the procedure thereunder to the understanding and special circumstances of different classes of persons;
- (d) respecting to the management, maintenance and inspection of hospitals and other places of treatment including those run by traditional healers;
- (e) assigning, where necessary, responsibility and applicability to local authorities, employers and other persons;
- (f) respecting the classification, treatment, control and discipline of persons treated or detained in such hospitals or other places of treatment or detention or accommodation and prescribing compulsory work and exercises for such persons where deemed desirable;
- (g) prescribing the precautions to be taken by any person suffering from or attending on or having the care or charge of persons suffering from sexually transmitted infections or diseases; and
- (h) generally, for the better carrying out of the provisions of this Part.

(2) Regulation made under this section may prescribe offences and penalties.

(3) Any person who contravenes a provision of the Part or regulations made under this Part commits an offence and shall on conviction be liable to the penalties prescribed in this Part, Act or regulations or such penalties as the court may determine, including community work, compensation and restitution.

PART VI: INTERNATIONAL HEALTH REGULATIONS, HEALTH
CONVENTIONS AND HEALTH PROTOCOLS

Enactment of International Health Regulations and Protocols.

70. (1) The Minister shall, immediately after the commencement of this Act if the Minister has not already done so, take to the Parliament of Swaziland or to such responsible authority for the passage into local law the International Health Regulations and the amendments which Swaziland has ratified.

(2) Subsection (1) shall also apply to International Health Conventions, Protocols and amendments to which Swaziland has ratified.

(3) The Minister shall cause the local law to be amended in the manner in which local laws are amended in the event the international instruments mentioned in this section are amended by the international community after compliance with the applicable procedure.

Powers to apply International Health Regulations, Conventions and Protocols.

71. (1) The Minister, with the concurrence of the Cabinet or Parliament, as the case may be, shall, by notice published in the Gazette, designate any port of entry into Swaziland as a sanitary or as International Health Regulations port of entry, and in the same manner, cancel such designation.

(2) The Minister may make regulations or issue orders, by notice published in the Gazette, to apply to the sanitary port or to such other international health instruments, which regulations or orders may prescribe fees, and offences and penalties.

(3) The Minister, in consultation with the Cabinet, may do such other acts as the Minister may deem necessary or expedient for giving effect to the terms of the International Health Regulations, International Health Conventions and Protocols.

(4) The Minister shall have the power to appoint or designate, by notice published in the Gazette, any persons, or officers to the health inspectors at the ports of entry into Swaziland who shall ensure the provisions and terms of the international health instruments are observed and complied with.

Regulations.

72. (1) The Minister may by regulations, published in the Gazette,

- (a) impose, subject to the provisions of the International Health Regulations, Conventions and Protocols, fees and provide for the recovery of any expenditure incurred in giving effect to the international health instruments;
- (b) make provisions for the management, maintenance and inspection of ports of entry and the enforcement of the international health instruments;
- (c) make provisions for the transborder movement of toxic, radioactive and hazardous substances and articles; and
- (d) make such provisions as appears to the Minister necessary and expedient for the carrying out of and giving effect to the International Health Regulations, Conventions and Protocols.

(2) The Minister may, by notice published in the Gazette, make regulations to apply to any infectious diseases to which the International Health Regulations, Conventions and protocols do not apply as adopted under section 70 subject to such exceptions, adaptations and modifications as the Minister may deem necessary or expedient.

(3) Any regulations made under this Part may prescribe offences and penalties for persons who contravene the provisions of such regulations.

(4) Nothing contained in this section shall be construed as limiting the Minister's powers to make regulations provided such regulations are not inconsistent with the international instrument as adopted or made municipal law.

PART VII: IMMUNIZATION AGAINST SPECIFIED DISEASES

Specified diseases.

73. (1) For the purposes of this Part, specified diseases shall include -

- (a) tuberculosis;
- (b) diphtheria pertussis (whooping cough);
- (c) tetanus;
- (d) poliomyelitis;
- (e) measles;
- (f) hepatitis B; and
- (g) any other such diseases, the Minister may, by notice published in the Gazette, declare to be specified diseases.

(2) The Minister may amend subsection (1) by notice published in the Gazette.

Immunization of persons.

74. (1) Every person of the age of five years and below five years shall be subject to immunization against the diseases specified in section 73.

(2) Every parent, custodian and guardian of a person of the age specified in subsection (1) or subsection (4) shall ensure that such person is immunized and in accordance with the schedule prescribed by the Ministry.

(3) The Ministry shall prescribe a schedule for the immunization which schedule shall be complied with by the Ministry, clinics, hospitals, health centres, and parents, custodians, guardians and any other person concerned or responsible for the health care of the person to be immunized.

(4) The health interests of the person to be immunized in terms of this section shall prevail and when deemed necessary by any authorised health officer or practitioner, as defined in section 59 except a traditional healer, any person above the age of five years may, and where necessary shall, be subject to immunization against any of the specified diseases and in such cases the parent, custodian, guardian or such person responsible for the person to be immunised shall ensure such person is immunized.

(5) Ethnicity, culture, custom, race, gender, age or religion shall be no excuse or defence to or for the contravention of the provisions of this section requiring the immunization of persons and no person shall fail to or caused to be immunized a person who is required by this section to be immunized on the grounds of ethnic or ethnicity, culture, custom, race, gender, age or religion.

Persons to carry out immunizations.

75. (1) Every health practitioner, as defined in section 59 except a traditional healer unless the Minister provides otherwise and any person authorized by the Minister, may carry out or perform the immunizations under this Part.

(2) The Minister may authorise, instruct or request any person, the Minister deems fit, to carry out immunizations under this Part on such terms and conditions as the Minister deems fit.

Charges for immunization against specified disease.

76. (1) Immunization in terms of this Part shall be free of any charge in all Government owned, subvented, aided or controlled hospitals, clinics, health centres or institutions.

(2) Notwithstanding subsection (1) the Minister, for sound reasons, may permit minimal charges to be levied or charged in respect of immunization after Parliament approval by way of a motion.

Evidence of immunization before admission to learning institutions.

77. (1) No child shall be admitted to any or attend any learning institution, school, pre-school, creche or any such other like institution unless or until there has been produced to the persons, in charge of or responsible for the admission or attendance in such institution, school, pre-school, creche, a valid certificate or other satisfactory documentary evidence that the provisions of this Part in respect to immunization of such child have been complied with.

(2) For the purpose of ascertaining whether or not the provisions of subsection (1) or the provisions requiring the immunization of children have been complied with, any authorised public health officer shall visit any such institution, school, pre-school, creche or other like institution and carry out investigations or inspections of the children attending thereat or records kept and relating to the immunization of such children.

(3) Such authorised public health officer shall then report the findings to the authorising officer or to the Director of Health Services who shall take the appropriate action in terms of this Act, including the prosecution of any person, not being a child, who violates the provisions of this Part.

(4) Where a child is to be admitted and it is found that, for a just reason, that child has not been immunized, that child may be admitted, subject to the immunization of that child before the child may start attending in that institution, school, pre-school, creche or such similar institution.

Emergency immunization of population at risk of specified disease.

78. (1) In the event of an occurrence or threatened outbreak of a specified disease in an area, the Minister may order or require any person who is at risk to be forthwith immunized or re-immunized.

(2) In such a situation, the Minister may order, instruct or request any person or body of persons to carry out the immunization on such terms and conditions the Minister shall find necessary.

(3) Any person, parent or guardian who refuse, without a just cause, to be immunized or re-immunized or who refuses to allow or produce a child or such other person, required to be immunized, or person or body of persons who, without just cause, refuse or fail to carry out the Minister's orders, instructions or request, commits an offence and, on conviction, liable to the punishment contained in this Part or regulations made under this Part.

Regulations.

79. (1) The Minister, by notice published in the Gazette, may make regulations to give effect to the provisions of this Part.

(2) Without prejudice to subsection (1) but in like manner the Minister may make regulations-

- (a) prescribing forms, cards, notices, returns, and books of records to be used in connection with immunization and defining the information to be used or furnished therein and the manner of use thereof by any person connected with immunization, births and the welfare of children and any other relevant persons;
- (b) prescribing and defining the duties, in connection with health employees and any other relevant persons who carry out or facilitate the immunizations;
- (c) conferring powers and imposing duties in respect of carrying out or enforcing the immunization process on or by any person including children, police officers, persons in charge of learning institutions, local authorities, chiefs and other bodies either under Government or outside Government control or direction;
- (d) prescribing the conditions under which immunizations shall be carried out or performed and the precautions to be observed by all persons connected with the immunization including persons to be immunized;
- (e) prescribing the conditions under which immunization vaccines may be supplied free of charge to persons connected with the immunization; and
- (f) as to the application and enforcement of the provisions of this Part to persons entering Swaziland and for requiring, where necessary, the immunization or re-immunization of such or any of such persons.

(3) The regulations made under this section may prescribe fees, charges, offences and penalties and the Minister may amend such fines payable under this Part or in the regulations except the terms of imprisonment.

Offences and Penalties.

80. Any person who contravenes the provisions of this Part or regulations made under this Part commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand Emalangeni or to imprisonment for a period not exceeding six months or to both fine and imprisonment.

PART VIII: WATER SUPPLIES

Collective responsibility to provide clean and healthy water.

81. (1) Subject to the provisions of the Water Act and provided that such provisions are not inconsistent with the objectives of this Act for purposes of this Part -

- (a) the Minister responsible for water as a resource;
- (b) the Minister responsible for the provision of domestic and commercial water in urban and peri-urban areas, including representatives of the Swaziland Water Services Corporation or its successor;

- (c) the Minister responsible for the supply of domestic and commercial water in the rural areas, including representatives of the Rural Water Supply Branch;
- (d) such other body or person recognised by the Government in respect of the supply and provision of domestic and commercial water; and
- (e) the Minister responsible for Public Health,

shall coordinate and have the collective responsibility, to the people of Swaziland, to provide sufficient clean and healthy water for domestic, and where applicable for commercial, purposes, but especially for human consumption irrespective whether for direct or indirect consumption, at all times and whenever reasonably possible.

(2) To attain the goal or objective of this Part, respecting the provision of clean and healthy water, the Minister shall consult with all the persons, entities and the representatives of such entities as specified in subsection (1) and others that may exist, and collectively shall, as a duty and obligation to the people of Swaziland, within six months after the commencement of this Act establish and thereafter maintain in existence a body to coordinate the interests and functions of the respective persons and entities.

(3) The body established under subsection (2) shall be established by the Minister by notice published in the Gazette and shall consist of such members as the parties shall agree, which number shall not exceed nine members.

(4) The body shall regulate its rules of procedure and it may co-opt persons known and proven for their expert knowledge in water engineering or hygiene related matters.

(5) The Minister in consultation with the Minister for Finance shall determine whether or not allowances may be payable to the members and if so, the amount payable.

(6) Any member of the public, alone or with others, who is a consumer or user of water envisaged by this section, shall be competent to commence civil proceedings in the High Court seeking to enforce any right deriving from the operation of this section, excluding compensation but including specific performance.

(7) The provision of clean and healthy water shall be subject to such conditions and terms as agreed upon and in line, where applicable, with commercial enterprises or public enterprises practices, which may or may not include the payment for services received or to be received.

(8) Nothing in this section shall be construed as restraining the Minister from entering into a contract with any person for the provision of clean and healthy water, provided the Government procedures relating to the award of Government contracts are followed.

Duties of other responsible authorities to furnish clean and healthy water.

82. It shall be the duty of the responsible authority or the authority responsible at a mission or communal institution or place or farm, mine, agricultural enterprise or undertaking and such like undertakings, enterprises or institutions to provide and maintain or cause to be provided and maintained, as far as may be reasonably possible, sufficient supplies of clean and healthy or wholesome water for human consumption, whether for direct or indirect consumption.

Water works not to be commenced until approved.

83. (1) No water works, in respect of water for human consumption, shall be commenced after the date of commencement of this Act unless it has been approved by the body established under section 81 (2) and before the establishment of this body, the ministries and entities referred to in section 81 (1) shall collectively approve such commencement of such water works.

(2) The Minister or the body established under section 81 through the Minister, shall give notice, published in the Gazette, of any proposed scheme for the purpose of construction of water works intended for human consumption.

(3) The notice shall describe such proposed scheme and clearly state the hour and place where the plans, estimates and other particulars relating to the water works may be inspected or obtained, whichever is the case.

(4) Where any person who is injuriously affected by such scheme or proposed scheme objects and transmits that person's written objections to the Minister within thirty days after the last publication of the notice, the Minister may refer the matter to the body established under section 81, or the Ministers mentioned under section 81 (1) may in consultation appoint a committee especially for this purpose to inquire into the expediency of sanctioning the proposed scheme and to hear the objection or objections.

(5) The body or committee referred to in subsection (4) shall enquire into the matter or objection and within the time given to it present a report to the Minister who shall in turn present it to the Ministers mentioned in section 81 and the Ministers shall after reading and understanding the report determine the issue or matter in whichever manner they find fit.

(6) The Ministers may be compelled to give reasons for their decision by any person sufficiently affected by the decision.

Health opportunities impact assessment on water resources development.

84. (1) Every person intending to carry out water works on a water resources development scheme or project shall comply with the Swaziland Environment Authority Act, the Water Act together with any Regulations made there under and any other legislation having a bearing or impact on the works, scheme or project.

(2) Every person intending to undertake water works or a water resources development scheme or project shall first furnish the Minister or the body established under section 81 with a health impact assessment report spelling out possible health impacts resulting from the intended works, scheme or project before embarking or commencing the works, scheme or project.

Water supply systems to be maintained in good repair.

85. (1) Every person responsible for any water supply system or systems shall keep such system or systems in a good condition for the effective supply or distribution of clean and healthy or wholesome water for human consumption.

(2) Any person who intentionally or willingly causes or suffers any water or water supply, falling under this Part, to be contaminated commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand Emalangeni or to imprisonment for a period not exceeding five years or both for a first offence and a fine not exceeding one hundred thousand Emalangeni or imprisonment for a period not exceeding ten years or both for a second and subsequent offences each time that person is convicted.

Powers to inspect water works, waste treatment works or facilities to monitor effluent quality.

86. (1) The Director of Health Services or a public health environmental officer or such other employee of the Ministry or such other person, as may be authorised by the Director of Health Services or by the Minister, may, at reasonable times, enter any water works, waste treatment works, or facilities that monitor effluent quality, to inspect and examine such and its products and ascertain the functioning of such entities, their state of repairs and the quality of the products.

(2) The Director, or the public health officer or such other authorised employee or person shall, immediately after the inspection, examination and ascertaining as required by subsection (1), make and deliver a written report to the Minister who shall in turn, without a decision, call the Ministers mentioned in section 81 or their representatives for the deliberation and determination of the issues raised in the report.

(3) Any decision taken under subsection (2) shall foremost take into account the interest of public health for the people of Swaziland and any person, alone or with others, may, through the High Court, require or compel the Minister or the Ministers, individually or jointly, to provide or make public the report or the reasons for the decisions.

(4) Any person who obstructs another person lawfully exercising or performing any duty given under this section commits an offence and liable, on conviction, to a fine not exceeding two thousand Emalangeni or to imprisonment for a period not exceeding six months.

Waste water management.

87. (1) At all water works or stand pipes or household, waste water so generated shall be disposed off in such a manner so as not to cause a public health nuisance or create conditions favouring the breeding of mosquitos or such other insects or undesirable animals or elements not conducive to public health.

(2) No person shall allow or permit or cause waste water from whatever source to be disposed off to, or be drained into, any place or thing that shall or likely to negate public health or the objectives of this Act.

(3) Any person connected with any water waste from whatever source shall drain such water waste into a soakaway pit or special lagoon suitable for the purpose and such water waste shall be subjected to some form of treatment to render it safe before discharge into a water body which may be a stream, river or dam or other like such water bodies.

(4) No person shall use waste water which contains faecal matter for irrigation before such waste water is treated to render it safe from any bacteria harmful to persons or public health.

(5) Notwithstanding subsection (4) no person shall use waste water which contains faecal matter for overhead irrigation except irrigating pasture lands and such waste water shall not be used to irrigate root-crops, vegetables or any other crop that may be eaten raw.

Regulations.

88. The Minister, respecting the functions of other ministries and bodies and subject to consultation and working collectively with the Ministers and other persons mentioned in section 81 and the body established under that section, may make regulations -

- (a) prohibiting bathing in, and prohibiting or regulating the washing of clothes or other things or articles, or animals drinking from, a place to which waste water drains into or to water suspected of not being clean and healthy;

- (b) prohibiting or regulating the use of any water by any person suspected or verified not to be clean and healthy;
- (c) prohibiting or regulating the erection or construction of dwellings, sanitary conveniences, stables, cattle kraals, pig sties, ostrich pans, pets, dipping tanks, toilets or other works likely to entail risk or harmful pollution of any water supply;
- (d) prohibiting or regulating the deposit in any vicinity of any thing which is or likely to have an adverse effect on public health or anything which is a product of the things mentioned in paragraph (c);
- (e) prohibiting the deposit in any place of any filthy or noxious or offensive matter or thing;
- (f) as to the setting of drinking water standards, and where the standards are set by another authority, by influencing that authority to set the standards as required for purposes of public health;
- (g) likewise as in paragraph (f) set standards for waste water, the requirements of water per person per day at different places and institutions and generally, for the prevention of pollution of water any where and purification of such water, in as far as public health is concerned;
- (h) regarding supplies of wholesome water or clean and healthy water;
- (i) setting and adopting water quality standards in line with the World Health Organisation standards for drinking water, in consultation with the authority or ministry responsible for that function, if it has not already done so or is not doing so;
- (j) prohibiting the use of polluted water supply for whatever purpose, in consultation with or collectively with any other authority or ministry responsible for this function;
- (k) prohibiting the pollution of surface and underground water, in consultation with or collectively with any other authority or ministry responsible for this function; and
- (l) for any other thing which the Minister may regulate or prohibit for the purpose of this Part.

Offences and penalties.

89. (1) Any person who contravenes any provision or requirement of this Part or the regulations made under this Part, for which no punishment is specified in this Act, the Water Act or other legislation commits an offence and is liable, on conviction, to a fine not exceeding ten thousand Emalañeni, and on default of such fine, to imprisonment for a period not exceeding three years.

(2) The Minister may amend, by regulations published in the Gazette, the amount of fines but not the terms of imprisonment under this Part.

PART IX: FOOD SUPPLIES AND FOOD HYGIENE

Duties of a local authority and other persons.

90. (1) Every local authority, within its jurisdiction, shall ensure that appropriate facilities are used for the hygienic handling of food during the manufacture, transportation, storage, preparation, packaging, sale and consumption.

(2) Every person, connected with the manufacture, transportation, storage, preparation, labelling, packaging, sale and consumption of foods, shall put in place and use appropriate facilities for the hygienic handling of food in that person's connection with the food.

(3) Any person who contravenes the requirements or provisions of this section commits an offence.

Duties of environmental health officers.

91. (1) It shall be the duty of every environmental health officer or any health officer authorised by the Minister or law, to take all lawful, necessary and reasonable and practical measures to ensure that all food or food supplies intended for human consumption is or are clean, wholesome, sound and free from any disease, infection or contamination and not stale or expired.

(2) Where an environmental health officer or such other authorised officer suspects or has reason to suspect that any food, in the officers opinion, is spoiled, stale, contaminated or for any reason is not fit for human consumption, the officer may take samples of such food for examination or analysis within a reasonable time to any competent laboratory for examination and analysis.

(3) The environmental health officer or such other authorised officer, whilst performing the provision of sub-section (2), may order the supply, sale or consumption of such food to be stopped pending the results of the examination or analysis.

(4) The environmental health officer or such other authorised officer shall not be liable to any damages which may be suffered by any person as a result of the application or enforcement of the provisions of this section, provided such officer acted within this Act or any other applicable law.

Inspection and licensing of milk dairies.

92. (1) No person shall open or operate a dairy business or facility unless it has been inspected and approved by an environmental health officer or such other authorised officer.

(2) A licensing officer shall not issue or renew a licence in respect of a dairy business unless the applicant produces documentary proof that the applicant's business premises have been inspected and approved by an environmental health officer or such authorised officer.

(3) No person shall sell or offer for sale or deliver to another person milk, milk produce or milk product intended for human consumption unless it satisfies the required standards in force at the commencement of this Act, or as they be amended or replaced or the standards the Minister may, by regulations published in the Gazette, make.

Unwholesome, diseased or contaminated food.

93. (1) No person shall sell, prepare, keep, transit or expose for sale any milk, dairy produce, dairy product, meat, food or other article of food including vegetables, which is not clean, wholesome, sound and free from any disease, infection, contamination or food which is stale or expired.

(2) No person shall collect, prepare, manufacture, keep, transmit or expose for sale such food or food article without taking adequate measures to guard against or prevent any infection or contamination of such food or food article.

(3) Any person, intending any food for human consumption at any institution or public gathering, shall comply with subsections (1) and (2) and shall ensure that the food complies with the requirements of those subsections, and without prejudice, the whole Act.

(4) Where an environmental health officer or such other authorised officer believes on reasonable grounds or suspicion that any food or food article is not clean, wholesome, sound or free from any disease, infection, contamination or that the food is stale or expired and poses danger to the public health, such officer may seize and destroy or cause to be destroyed such food or food article.

(5) Any food shop which fails to comply with the applicable provisions of this Part or section shall be liable to have the premises closed forthwith by an environmental health officer or such other authorised officer until such time that the applicable provisions, as shall be specified by the officer, are complied with to the satisfaction of the environmental health officer or such other authorised officer.

(6) Any person aggrieved by the decision of an environmental health officer or such other authorised officer may apply to a court of law to have the decision set aside but the court shall not set aside such decision until the court is satisfied that the said provisions have been complied with and any error or mistake or fault in procedure shall not vitiate the environmental health officers' or such other authorised officer's decision to close the shop and no liability shall lie against such officers.

(7) Any closure of a food shop in terms of this section shall not be construed as punishment and the punishments contained in subsection (9) shall apply to the person whose food shop is closed.

(8) No person shall obstruct an environmental health officer or such other authorised officer in the execution of lawful duties under this section and any person who obstructs such officers commits an offence.

(9) Any person who contravenes a provision of this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand Emalangeni which fine is subject to amendment by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding twelve months.

Powers to inspect food, articles and premises.

94. (1) An environmental health officer, meat inspector or such other authorised officer may, at any reasonable time, enter any premises where food is handled to inspect and examine any such food suspected or believed to be or is intended for human consumption.

(2) Where such food appears to such officer to be unfit for human consumption, the officer shall seize such food and deal with the food as provided in subsection (4) of section 93 or as provided in some other related law.

(3) No person shall obstruct such officer in the execution of the duties provided under this Part and such officer may request the assistance of a police officer or other person whilst carrying out the provisions of this Part.

(4) For purposes of this section "food" includes, food articles or such other article related to food handling, with such modifications.

Closure of food premises for clean-up or repairs.

95. (1) An environmental health officer or such other authorised officer after inspection of a food premises, place or shop as provided by section 94 and if in the opinion of the officer the premises, place or shop is grossly neglected or dirty and poses a potential danger or danger to public health, may order the closure of the premises, place or shop for an initial period not exceeding three working days to facilitate thorough cleaning, improvement of the detestable conditions and minor repairs where necessary.

(2) The environmental health officer or such other authorised officer shall not permit the closed premises, place or shop to be re-opened for business unless satisfied that the conditions are satisfactory which conditions shall be specified when closure is effected.

(3) The environmental health officer or such other authorised officer may instruct the Attorney-General, where the premises, place or shop is found to have major structural defect, to move an application in a magistrates court to have the licence in respect of such premises, place or shop suspended or cancelled until the premises, place or shop or conditions are rectified to the satisfaction of the environmental health officer or the authorised person.

(4) Any person who obstructs, or refuses entry to, or who persuades otherwise the environmental health officer or such other authorised officer whilst that officer is carrying out the provisions of this Part commits an offence and is liable, on conviction, to a fine not exceeding five thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding one year.

Hygiene for food handlers.

96. (1) Every person engaged in the handling of food for sale or for human consumption shall ensure that the food is protected from all possible contamination specified in this Part or the regulations applicable to food hygiene and shall further comply with any legislation respecting food handling.

(2) Any person who fails to comply with any legislation respecting food hygiene or food handling commits an offence.

Control of street food vending.

97. (1) It shall be the duty of every local authority, where street food vending is permitted, to provide or identify suitable sites and appropriate and adequate facilities for street food vendors.

(2) All street food vendors shall be licensed and like other food handlers in the formal sector, shall be governed by legislation or regulations relating to food hygiene and food handling.

(3) All street food vending sites shall be regularly inspected by the environmental health officer or such other authorised officer so as to ensure maintenance of hygiene standards and food handling standards at such sites and to ensure that the street food vendors carry out their activities in accordance with the provisions of this Part or related legislation and to ensure hygiene practice on food handling is practised.

(4) The environmental health officer or such other authorised officer shall seize and destroy as provided in subsection (4) of section 93 food or food items found not fit for human consumption or not conducive to food hygiene.

Regulations.

98. (1) The Minister, alone or with any other person or body, may, by notice published in the Gazette, make regulations for the purposes of public health and to give effect to the provisions of this Part.

(2) Without prejudice to subsection (1) the Minister may in like manner make regulations regarding all or any of the following matters -

- (a) the inspection of factories, stores, shops, streets or other places where any article relating to food or food is manufactured, prepared, kept or sold;

- (b) the removal or detention or examination or inquiry of things or articles related to food or food suspected of being stale, expired, diseased, unsound, unwholesome or unfit for human consumption.
- (d) health minimum requirements or standards for various food outlets, shops, street vending sites and such similar things or places;
- (e) requirements for conveyance of food and for vehicles that convey food and such related things or actions;
- (f) the requirements for medical examination of any person in premises where food intended for human consumption is collected, processed, kept, sold or offered or exposed for sale;
- (g) the health and hygiene standards and practices for food handling for the formal as well as the informal sector;
- (h) the food contents or content, composition, nutrients and other substances that may or may not be added to food or foods;
- (i) the labelling of food packages or containers including the specifying of the date of manufacture, packaging or expiration as the case may be;
- (j) the prohibition of the employment of a person, in connection with the handling, collection, preparation, storage, distribution, conveyance or sale of any article of food or food, who has been proved or suspected to be a carrier of an infection of typhoid, enteric fever or other infectious disease;
- (k) the closure of food shops, street vending sites and other outlets that fail to meet or maintain health standards or practices and pose potential danger or danger to public health.

(3) Nothing shall prevent the Minister from issuing orders or notices, published in the Gazette and where expedient verbal orders or notices but immediately reduced into writing, of any of the matters specified in subsection (2).

(4) The regulations, orders or notices made under this Part may prescribe offences and penalties and amend fines contained in this Part.

Offences and penalties.

99. Any person who fails to comply with a requirement or who contravenes a provision of this Part or any legislation made under this Part commits an offence, and where a penalty is not stated, is liable, on conviction, to a fine not exceeding ten thousand Emalangeni which fine may be amended by the Minister by notice published in the Gazette or to imprisonment for a period not exceeding three years.

PART X: INFANT NUTRITION

Infants to be nourished.

100. (1) For the purposes of this Part, unless the content otherwise requires -

“infant” means a person or child under the age of seven years;

“infant food” means any food nutritionously suitable for an infant, including dairy produce which is like wise suitable and sold or prepared for consumption for infants, or which is represented by its manufacturer or promoter or seller, and not prohibited by the Minister by notice published in the Gazette, as being suitable for consumption by infants.

(2) Every infant shall have an enforceable right to be fed and nourished with infant food including breast milk by its mother, custodian or guardian.

(3) No person, without just cause, shall deprive an infant any right conferred by this section, Part or other legislation relating to the conferment or protection of infants or children of their rights.

(4) No law shall be construed, for this Part, as denying infants or children the right to be recipients of rights.

(5) Any person who has a legal duty to feed and nourish an infant and who, without a just cause, fails, neglects or refuses to feed and nourish, or fails, neglects or refuses to contribute towards the feeding and nourishment of the infant commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding fifteen months for each time the offence is committed.

(6) The Court determining or hearing a case under this section shall take into account -

- (i) the station of life of the parties;
- (ii) the personal circumstances of each party;
- (iii) the financial or income means of each party; and
- (iv) most important and superceding the considerations in sub-paragraphs (i) to (iii) inclusive, the rights and welfare of the infant, and

thereafter, the court shall be competent to make, in addition to the sentence given under subsection (5), further orders for the welfare of the infant, including orders as to the execution and sale in execution of property from the estate of the defaulting part or parties.

(7) Any person concerned with the welfare of the infant, including a social health officer, social welfare officer or such officer as may be authorised by the Minister or a stranger, shall be competent to institute proceedings on behalf of a parent, guardian or the infant for the benefit of the infant.

(8) The court hearing the case shall guard against bad motive, malice and intentions propelled by motives other than the welfare of the infant and for that purpose for the application or action to succeed it must be proved to the court that the child is in fact not well fed and nourished, regard given to the contents of subsection (6).

Breastfeeding of infants.

101.(1) Subject to the health status of a mother, a mother of an infant shall breastfeed, in the interest of promoting natural nourishment of infants or for the purpose of complying with the provisions of this Part, the infant for a period which shall not be less than six months.

(2) Where an infant refuses or rejects the mother's breast milk, the mother may obtain documentary proof of that fact excusing the mother from compliance with subsection (1) from any health officer, such as a nurse, who shall first verify the truthfulness of the mother's assertion and the officer or nurse shall keep a record of the fact.

(3) Any person required under this section to keep a record shall keep such record for a period not less than twelve months.

Regulations in respect infant nutrition.

102.(1) The Minister may make regulations, published in the Gazette for the purposes of this Part, alone or with another person.

(2) Without prejudice to subsection (1) the Minister, in collaboration with the Nutrition Council of Swaziland or its successor, may make regulations or notices published in the Gazette in respect of all or any of the following matters -

- (a) encouraging and promoting the breastfeeding of infants;
- (b) standard of composition, quality, or the properties, of any infant food or feeding articles;
- (c) regulating, restricting or prohibiting the manufacturing, marketing, advertising, sale or offer of certain infant foods and feeding articles;
- (d) the sampling and testing of infant food to ascertain quality, properties and suitability of infant food;
- (e) regulating, restricting or prohibiting the sale, distribution or display of information or educational materials relating to infant food, feeding articles or the feeding and nutrition of infants - which in the opinion of the Minister or the Nutrition Council of Swaziland is misleading or non appropriate for the people or infants of Swaziland;
- (f) regulating, restricting or prohibiting -
 - (i) the offering or giving directly or indirectly, by manufactures or promoters of infant food or feeding articles, of financial benefits or such gifts intended to induce health workers to promote the interests or business of the promoters or manufactures;
 - (ii) receipt by health employees of financial benefits or gifts referred to in subparagraph (i);
- (g) powers of entry, search, seizure, inspection and investigation for purposes of preventing, detecting, counselling or investigating offences in terms of this Part or regulations;
- (h) furnishing of returns, particulars and other information by nurses, medical practitioners, medical officers, other officers, and persons who manufacture, market or sell infant food or feeding articles;
- (i) empowering the Nutrition Council of Swaziland to approve labels, packages, information, educational or promotional material as pertaining to the marketing and distribution of infant food and feeding articles;
- (j) empowering the Nutrition Council of Swaziland to do certain things which the Minister believes the Nutrition Council of Swaziland is the better forum or vehicle for doing those things or delegate some of the Ministers powers, generally or specially to the Nutrition Council of Swaziland; and
- (k) generally, any matter which, in the opinion of the Minister, may encourage and promote the proper feeding and nutrition of infants.

- (3) Regulations made under this section or Part may prescribe offences and penalties.

Offences and penalties.

103. Any person who fails to comply with a requirement under this Part or regulation or who contravenes a provision of this Part or regulations made under this Part commits an offence and liable, where a punishment is not specified, on conviction, to a fine not exceeding five thousand Emalangeni which fine the Minister may amend by notice published in the Gazette or to imprisonment for a period not exceeding twelve months.

PART XI: SLAUGHTER HOUSES AND MEAT HYGIENE

A. SLAUGHTER HOUSES.

Definition of a slaughter house

104. In this Part, unless the context otherwise requires -

“slaughter house” includes an abattoir, slaughtering poles or place set apart and approved by a local authority for slaughtering animals and birds, the meat of which is intended for sale or for human consumption.

Local authorities to licence slaughter houses.

105.(1) Subject to the provisions of any applicable regulations or legislation, a local authority empowered so to do may, subject to a satisfactory health report by an environmental health officer or such other authorised person or officer, approve any slaughter house, which has applied for such approval, from time to time within its jurisdiction.

(2) Any approval issued in terms of this section shall be valid for a period not exceeding twelve months from the date it is issued.

(3) Under strict and limited circumstances and subject to the approval of the environmental health officer or such other authorised officer or person, the approving authority may issue a permit temporal in nature to an applicant which permit shall attach conditions to be complied with by its holder and the life of such permit shall not exceed six months.

(4) The renewal of a temporal permit shall be subject to the approval by the Minister or Director of Health Services after satisfactory reasons are given by the applicant.

(5) Nothing in this section shall be construed as prohibiting a local authority from establishing, executing, administrating and maintaining a slaughter house or to own a slaughter house subject to the compliance with all the provisions of this section.

A local authority may refuse the grant of a licence or permit.

106.(1) A local authority or the licensing authority may refuse to grant or renew a licence or permit for a slaughter house if the provisions of section 105 are not complied with to the satisfaction of that local authority and an environmental health officer or such other authorised person, or for any other reason the local authority or such other authorised persons find just.

(2) A local authority or such other authorised persons may at any time withdraw a permit or licence which is granted if the conditions of the slaughter house do not comply with the established minimum health requirements.

(3) Any person who is aggrieved by the refusal of a local authority or such other authorised person to grant or renew a licence or permit on the strength of the provisions of this Part, may appeal and shall lodge the written appeal within thirty days of such refusal or notification of such refusal, whichever is later, to the Minister.

(4) For purposes of the appeal, the local authority or such other person shall furnish the applicant or appellant reasons for the denial or refusal of the grant or renewal of the licence or permit within seven days of receipt of the request.

(5) Upon receipt of the appeal the Minister may call the parties or representatives of the parties and hear their submissions and make an appropriate decision, which may include the setting up of a competent body to decide the matter.

(6) Nothing in this section shall be construed as preventing the Minister, when the appeal is lodged or noted against the refusal to renew a licence or extending a permit, from exercising the Minister's discretion, authorising the continued use, on such terms and conditions, of the slaughter house pending a decision on the appeal.

(7) A local authority or such other authorised person and the applicant or appellant shall comply with any order issued, or endorsed where a body is set up, by the Minister and the Minister's order or decision shall, administratively, be final.

Licence required for the use of premises as a slaughter house.

107. No person engaged in the trade or who is otherwise related to the supply of meat for human consumption shall use any premises as a slaughter house unless that person is personally licensed in respect of the premises.

Cancellation of a licence.

108. If the holder of a slaughter house licence is contravening the provisions of this Part of Act, the local authority or such other authorised person which issued such licence may, or if such local authority or person fails so to do for whatever reason, the Minister may, forthwith, after informing the holder of the details of the contravention, cancel the licence held by such holder.

B. MEAT HYGIENE

Prohibition against sale of meat not slaughtered in a slaughter house.

109.(1) No person shall sell meat obtained from an animal other than permitted wild game unless such animal has been slaughtered in a slaughter house approved by the Minister and licensed by a relevant local authority.

(2) The Minister shall issue orders, notices or regulations in respect of birds sold for human consumption and thereby regulating the application of this Part to the business of such birds.

(3) No person shall sell imported meat in the country unless such person holds a valid permit specifically allowing that person to import or to sell such meat into the country and such permit shall not be granted unless the Minister or the Director of Health Services or the Director of Veterinary Services or such other authorised person is satisfied of the health and hygienic status of such meat.

(4) An importer of meat shall comply with the conditions stated in the permit or such regulations as may be made by the Minister.

(5) Any person who fails to comply or who contravenes any provision of this section or provisions made as a result of the operation of subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding six months.

Inspection of meat.

110.(1) Every local Authority so empowered by the Minister or law shall ensure that any meat slaughtered at a slaughter house licensed by it or any meat intended for sale for human consumption within its jurisdiction is inspected in terms of the law.

(2) The meat shall be inspected by a competent meat inspector or environmental health officer, for the purposes of this Act, employed by that local authority or by Government and may charge a fee at a rate approved by the Minister.

(3) Nothing in this section shall be construed as prohibiting any other person employing and using that person's meat inspectors but for the compliance with this Act, subsection 2 shall remain applicable.

(4) No person shall obstruct a meat inspector or any environmental health officer whilst executing the duties provided in this Act or other related legislation.

(5) The Minister may make regulations, published in the Gazette, prescribing anything which may be prescribed under this Part and especially this section, including the fees which may be payable for the inspection of animals, carcasses and meat, the circumstances under which or in which the fees shall be payable and by whom.

Seizure, condemnation and destruction of meat.

111.(1) Any environmental health officer or such other authorised officer may, at any reasonable time, enter any shop, or premises or place, or thing used for the sale of, or for the storage of or for conveyance of meat to inspect and examine any meat found therein which such officer has reason to believe is intended for human consumption and if such meat appears to such officer to be unfit for human consumption, the officer may seize and destroy or cause to be destroyed by any person, including the owner or possessor or custodian of such meat, the meat.

(2) The Minister may if the Minister deems it necessary, make notices or regulations, published in the Gazette, in respect of subsection (1).

Conveyance of meat in approved closed vehicles.

112.(1) No person shall convey or transport in an open vehicle meat intended for sale to, or for consumption by, human beings.

(2) No person shall carry, convey, store meat intended for human consumption in any manner likely to or does get it contaminated with any substance not supposed to be on the meat by any health standards.

(3) No person shall sell or deliver to another person or cause to be delivered to another person, either free of charge or for a charge, meat which is contaminated, spoiled, diseased, stale, bad or infected with any disease or infection.

(4) No person shall deliver or cause to be delivered meat from an animal which may have died of its own, the cause of death is unknown or died from an infection or disease whether known or unknown for human consumption.

(5) Meat meant for sale or for human consumption at a charge or free of charge shall be conveyed in a truck specially designed for the purpose of conveying meat in a hygienic manner or conveyed in a closed vehicle approved by an environmental health officer or such other authorised officer.

(6) Persons carrying, transporting or conveying meat intended for human consumption whether from a slaughter house, vehicle, conveyancer, storeroom or such other place or thing shall wear or put on clothes or articles that will prevent contact between the person and the meat and such clothes or articles shall be in accordance with the health and hygienic requirements or as may be approved by an environmental health officer or such other authorised officer.

(7) Any person, doing any of the activities mentioned in subsection 6 and in compliance with that section, shall ensure that no contact takes place between the meat and the human hair, any where and any place, of that person or other persons.

(8) A person cutting meat into the desired portions and where the use of bare or open hands is permitted, shall ensure the hands are clean and free from injury or cuts and shall ensure no contamination or infection of the meat takes place.

Closure of meat shop for cleansing and minor repairs.

113.(1) An environmental health officer or any other authorised officer may, after inspection of a butchery or meat shop or any other place where meat is sold, stored or displayed for sale or intended for human consumption, and if in the opinion of the officer the place or premises is grossly neglected and is hazardous or is a source of danger to public health, order the closure of such place or premises for a period not exceeding three working days to facilitate through cleansing and, if any, minor repairs of or to the place or premises.

(2) An environmental health officer or such other authorised officer shall, where premises or place found after inspection to have major defects that are a danger to public health, apply, in person or with the assistance of the office of the Attorney-General, to a magistrates court for the suspension of the operations of the premises or place in respect to meat or in respect to the whole place or premises or to the suspension of the licence thereof until the defects and conditions are rectified to the satisfaction of the officer or court.

(3) Any person who obstructs or refuses to comply with a lawful request or order of an environmental health officer or such other authorised officer whilst executing their duties under this section, commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding twelve months or to both fine and imprisonment.

Regulations.

114.(1) The Minister may make regulations as may be necessary to carry into effect the provisions of this Part.

(2) Without prejudice to subsection (1), the Minister may make regulations regarding all or any of the following matters -

- (a) the inspection of animals whose meat is intended for human consumption and of slaughter houses, and of factories, stores, shops and other places where meat is sold, processed, stored and conveyed;

- (b) taking and examination of samples of meat, the removal of meat pending examination results, the seizure, destruction, treatment and disposal of meat found to be unwholesome, unsound, contaminated, unhygienic, infected, diseased, bad or spoilt and of diseased animals sold or intended or offered or exposed for sale for human consumption;
- (c) the ensuring that imported meat is inspected by a meat inspector before it is sold to the public to any person for human consumption;
- (d) the establishment, locality, supervision, equipment, maintenance and management of slaughter houses;
- (e) the disposal of waste products of slaughtering and the inspection of slaughter houses and the animals therein;
- (f) prohibiting, restricting and regulating the slaughter and disposal of diseased animals;
- (g) prescribing the methods which may be used for the killing or slaughter of animals intended for human consumption, whether such killing or slaughter takes place at slaughter houses or elsewhere;
- (h) providing for exemptions where deemed necessary;
- (i) prescribing fees and charges for services and for incidental matters; and
- (j) specifications and requirements for vehicles used for the conveyance of meat and meat products.

(3) Regulations made under this Part may prescribe offences and penalties.

Offences and penalties.

115. Any person who fails or neglects to comply with or who contravenes, a provision of this Part or regulations made under this Part commits an offence, and where a penalty is not specified, is liable on conviction to a fine not exceeding ten thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding three years or both such fine and imprisonment.

PART XII: CONTROL OF HAZARDOUS SUBSTANCES, RADIOACTIVE AND TOXIC WASTES

Control of hazardous substances, radioactive and toxic wastes.

116. (1) In this Part, unless the context otherwise requires -

“hazardous substances” means,

- (a) any substance or mixture of substances, which may endanger the health of a human being or domestic or wild animal, bird or fish by reason of its toxic, corrosive, irritant, sensitising or inflammable nature; or
- (b) any radio-active substances; or
- (c) any article or any component part or accessory which is intended for use in or in connection with an article which when operated, causes it, or produces any electronic radiation, to be a hazardous article but does not include an essential drug or drugs;

“hazardous article” means any thing the Minister or other law, may declare to be a hazardous article; and

“radio-active substance” means any substance which produces ionizing radiation as a consequence of any spontaneous nuclear process.

(2) The Minister, alone or on the advice of an established body, may declare any substance to be or not to be a hazardous substance for purposes of Act.

Establishment of the Hazardous Substances Control Authority.

117.(1) The Minister may, for the purposes of this Part, establish by notice published in the Gazette, a body to be known as the Hazardous Substances Control Authority and its members shall be appointed by the Ministers in consultation with other ministries concerned with this Part.

(2) The members of the Hazardous Substances Control Authority (hereinafter referred to as the Authority) shall include -

- (a) a Chairman who shall be the Deputy Director of Health Services;
- (b) an officer from the ministry responsible for the control and management of hazardous substances;
- (c) an officer from the Ministry responsible for Agriculture;
- (d) an officer responsible for occupational safety and health;
- (e) an officer from the Ministry responsible for Industry or Commerce;
- (f) an officer from the Ministry or body responsible for the Environment;
- (g) an officer from the office of the Attorney-General;
- (h) an officer from the Ministry or body responsible for water for consumption; and
- (i) one person who is an expert on hazardous substances and chemicals; and
- (j) such other persons the Minister may appoint but not exceeding three.

(3) The Minister shall designate one of the members of the Authority to be vice or Deputy Chairman of the Authority who shall exercise the functions and powers of the Chairman whenever the Chairman is unable to act.

(4) The Minister shall designate one of the members of the Authority to be Secretary and another to be Assistant Secretary who shall act whenever the Secretary is unable to act.

(5) The Chairman shall preside over the meetings of the Authority which shall be convened by the Secretary whenever is requested to do so by a written letter by not less than three members or by order of the Minister.

(6) The Authority shall regulate its rules of procedure including the number of meetings, which shall not be less than four in one calendar year, voting and the quorum.

Functions of the Authority.

118.(1) The principal functions of the Authority shall be -

- (a) to advise the Minister on all matters pertaining to procurement, storage, use, prohibition, disposal and destruction of hazardous substances;
- (b) to set guidelines on the handling and use of hazardous substances;
- (c) to set guidelines on the protection of employees who handle hazardous substances including radioactive substances or articles at the work place;
- (d) to set guidelines on the protection of persons in general including the environment, against the hazardous substances and radio-active substances.
- (e) to seek internal or external expertise on general management of hazardous substances, radio-active and toxic waste;
- (f) to advise and give guidelines on radio-active substances, toxic waste including their management and disposal;
- (g) to do other duties the Minister or Government may require the Authority to do provided they are lawful.

(2) The Minister may make regulations for the purposes of this section which shall be published in the Gazette, including the establishment of special committees for sophisticated and complex issues.

Conditions of office of members.

119.(1) The Minister may stipulate the terms and conditions of engagement of the members of the authority in the letters of, or at the time of, appointment.

(2) The Minister in consultation with the Minister responsible for Finance may pay such allowances and, where appropriate, salaries as may be determined.

(3) The Minister shall have the right to remove any member so appointed and no member shall be permitted to remain a member, if that member -

- (a) is convicted of rape, incest, sodomy or any sexual offence;
- (b) is convicted of theft or dishonesty and sentenced to imprisonment for a period not less than six months;
- (c) is mentally or physically incapable of efficiently carrying out the duties imposed by section 118;
- (d) is or has been tried by a court for the offence of bribery relating to the duties imposed by this Act; or
- (e) resigns in writing to the Chairman or Minister.

Inspectors and environmental health officers.

120.(1) Subject to the Civil Service Order, 1963 the Minister may appoint or designate -

- (a) persons to be inspectors as the Minister may consider necessary for the proper enforcement for this Part or Act; and
- (b) chemical analysts as the Minister may consider necessary for the purposes of testing, examination or analysis of hazardous substances in terms of this Act or other Act.

(2) For the purposes of subsection (1), in the case of a person employed in a department or Ministry for which the Minister is not responsible, the Minister shall first consult such other Minister or person as is responsible for that department or Ministry.

(3) An environmental health officer may be appointed as an inspector under this Part.

(4) A person appointed or designated as an inspector under this section shall be issued a certificate or other document, certifying that the person is appointed or designated an inspector, by the Minister or such authorised officer.

(5) An inspector shall, on demand by any person affected by the exercise or performance by the inspector of any power or function under this Act, exhibit the certificate or document issued in terms of subsection (4).

Powers of inspectors and environmental health officers.

121.(1) Subject to subsection (2) an inspector or an environmental health officer or such other authorised officer may at all reasonable times in the circumstances -

- (a) enter upon and search any premises, place, vehicle, vessel or aircraft at which there is, or is on reasonable grounds suspected to be, any hazardous substance, hazardous article or radio-active substance;
- (b) inspect any substance or mixture of substances or article or radio active substances or article which is, or on reasonable grounds, suspected to be, a hazardous substance or hazardous article or radio-active substance, or any book, record or document found in or upon such premises, place, vehicle, vessel or aircraft;
- (c) seize any substance or mixture of substances or article or any book, record or document so found in respect of which any provision of this Act appears to have been contravened, or which appears to be helpful or essential to ascertaining whether or not a provision of this Act is or is about to be contravened;
- (d) by notice in writing to the person in control thereof prohibit the sale or removal of, or any other dealing whatsoever in connection with, such substance or mixture of substances or article in respect of which any provision of this Act appears to have been or about to be contravened;
- (e) take so many samples of any such substance or mixture of substances as the inspector or officer considers necessary for the purpose of testing, examination or analysis in terms of this Act or other related legislation; and
- (f) carry out any investigation, test or examination the inspector or officer considers necessary for the purposes of this Part or Act in respect of any substance or article which is or which the inspector or officer believes to be a hazardous substance, hazardous article or radio-active substance.

(2) An inspector, environmental health officer or such other authorised officer may not enter upon or search any dwelling house unless the inspector, environmental officer or such other authorised officer believes on reasonable suspicion or grounds that evidence relating to a contravention of this Part or Act or other related Act is to be found therein.

(3) No person shall contravene or fail to comply with a notice of prohibition issued in terms of paragraph (d) of this section.

(4) An inspector, environmental health officer or such other authorised officer may return anything seized in terms of this section or by notice in writing to the appropriate person withdraw a notice of prohibition issued in terms of paragraph (d) of this section.

(5) If after twenty-four months the sample taken under this section is not returned or no court proceedings have been instituted by the Government against the owner or person who was in charge of the substance, such person may claim from the Minister the actual cost at the time of confiscation, and nothing more of the sample taken.

(6) For purposes of the Limitation of Legal Proceedings Against Government Act, 1973 the cause giving rise to the action shall be deemed to have risen at the expiry of the twenty-four months mentioned in subsection (5).

Analysis of samples.

122.(1) A sample taken in terms of section 130 shall be taken by the inspector, environmental officer or such other authorised officer, and be submitted without delay, to a chemical analyst in a manner that may be prescribed by the Minister or by a related legislation for examination or analysis.

(2) The chemical analyst to whom a sample has been given or submitted in terms of this Act or such other related legislation shall, with all convenient speed, test, examine or analyse the sample and the result of the test, examination or analysis shall be stated in a certificate or document which may be prescribed by the Minister or such related legislation.

(3) On receipt of the certificate or document mentioned in subsection (2) the Minister or the Director of Health Services or the Authority shall take the necessary action, including the prosecution of any person suspected to have contravened any provision of this Act.

Inspection and licensing of premises dealing with hazardous substances.

123.(1) No premises handling hazardous substances, mixture of such substances or radio-active substances shall be licensed or permitted to operate unless such premises or place have been inspected by the inspector or environmental officer or such other authorised officer and that the inspector, the environmental health officer or such other authorised officer has issued a certificate certifying that the premises or place does meet minimum health requirements or standards for that purpose as trade premises or place.

(2) A certificate or permit issued under this Part shall be valid for a period not exceeding twelve months and may be renewed subject to inspection and approval in terms of this Act.

Other offences.

124. An person who -

- (a) obstructs or hinders an inspector, environmental health officer or such other authorised officer in the exercise of the powers or carrying the duties conferred by this Act;

- (b) contravenes any provision of this Part;
- (c) with fraudulent intent, tempers with any sample or article taken in terms of this Act;
- (d) makes a false or misleading statement in connection with any hazardous substance, hazardous article or radio-active substance -
 - (i) in any statement to or before the inspector, environmental health officer, analyst, such other authorised person or the Authority; or
 - (ii) in the course of the sale thereof; or
- (e) sells any hazardous substances or hazardous article upon which or upon or within the container of which a false or misleading statement in connection with the contents appears;
- (f) for the purposes of business or trade, misuses or misrepresents any report or certificate made or issued by an inspector, environmental health officer or such other authorised officer or the analyst under this Act;
- (g) gives false information to a supplier or presents any forged document in order to acquire a hazardous substance or hazardous article or radio-active substance; or
- (h) does any thing contrary to the spirit, objectives or purposes of this Part or Act,

commits an offence, and shall be liable, on conviction, to a fine not exceeding fifty thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding twenty-four months.

Restricted use and protection of persons handling radio-active substances or materials.

125.(1) There shall be a registrar who shall keep a register of hospitals, institutions, premises, mining and industrial premises and any place using, keeping, storing or handling radio-active substances or minerals or hazardous substances or toxic wastes.

(2) Every person who handles radio-active material or substances or hazardous substances shall be medically examined before employment and periodically after engagement at the expense of the employer.

(3) The person mentioned in subsection (2) shall be provided with suitable protective clothing, radio-active monitoring equipment and shall be registered with the registrar.

(4) The inspector, environmental health officer or such other authorised officer shall regularly monitor such premises, workplace and articles for maximum permissible doses or levels of radiation and adequate protective measures for persons in the proximity or such surrounding places.

(5) Any person wishing to transport radio-active substance or material or toxic waste within or in transit the country shall apply for a permit from the Minister and the Minister shall consult with the Authority and any other person the Minister believes is concerned with such issue.

(6) The application and the permit shall provide information on the type and quantity of the radio-active substance or material or toxic waste, the route and type of vehicle to be used, destination and approximate time of departure and arrival at the stated destination.

(7) On receipt of the application, the Minister together with the Authority and any other person the Minister may permit, shall determine and decide on the application.

(8) The applicant shall comply with the conditions or terms of the permit and failure, is an offence.

(9) In case of an accident or spillage of the radio-active substance or material or toxic waste, the person in control or in charge shall immediately report such accident, if its an accident, occurrence or spillage to an inspector, environmental health officer or some other authorised officer, failure of which, to the Minister.

(10) Upon receipt of such report, such officer or the Minister shall immediately arrange or cause to be arranged for the remedial steps or actions to be followed including, the removal, the safe keeping or safe disposal, investigation, prosecution, as the case may be, of the radio-active substance or the material or toxic waste or the persons involved.

(11) The Minister or such authorised persons shall ensure that the trade, storage, use and transportation of dangerous chemicals and pesticides is restricted, managed and monitored by whatever means including the issuance of directives, notices and regulations.

Regulations.

126.(1) The Minister may make orders, notices and regulations for the purposes of this Part, published in the Gazette.

(2) Without prejudice to subsection (1) the Minister may make orders, notices and regulations, published in the Gazette, on the following matters -

- (a) the manufacture of permitted dangerous chemicals, pesticides and fertilizers, in consultation with other Ministers concerned with such issues, failure to consult shall not invalidate such legislation;
- (b) importation, transportation, storage, use, monitoring of radio-active substances and other materials;
- (c) classification of hazardous substances and other materials;
- (d) application, storage and disposal of hazardous substances including their containers;
- (e) prohibit and regulate the importation and use of hazardous substances; and
- (f) prohibit and regulate anything which needs to be prohibited and regulated.

(3) Any regulations, notices or orders made under this Part may prescribe offences and penalties, including amending any fines prescribed under this Part.

Offences and penalties.

127. Any person who contravenes any provision of this Part or subsidiary legislation made under this Part commits an offence and shall be liable, on conviction, where punishment is not specified, to a fine not exceeding fifty thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding five years or to both fine and imprisonment.

PART XIII: NUISANCE, SANITATION, DWELLINGS, PUBLIC
AND OTHER BUILDINGS

Interpretation.

128. In this Part, unless the context otherwise requires -

“author” means an author of a public health nuisance;

“author of a public health nuisance” means any person or body by whose act, default or sufferance the public health nuisance is caused or exists or continues whether that person or body is an owner or occupier, estate agent or both owner and occupier or any other person;

“health” means public health;

“medical officer” includes an environmental health officer or such other authorised officer,

“nuisance” means a public health nuisance; and

“residential house or place or dwelling” means a dwelling intended for the occupation by a human being.

Nuisance prohibited.

129. No person shall cause a nuisance, or shall suffer any nuisance or other condition liable to be injurious or dangerous to health to exist on any land or premises owned or occupied by that person or which that person is in charge of.

Duties of local authorities to maintain cleanliness and prevent nuisance.

130.(1) Every local authorities shall take all lawful, necessary and reasonably practicable measures for -

- (a) maintaining its area at all times in a clean and sanitary condition, and preventing the occurrence therein of, or remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health; and
- (b) preventing any pollution dangerous to health of any supply of water which the public within its area has a right to use and does use for drinking or domestic purposes, whether such supply is derived from sources within or beyond its area, and purifying any such supply which has become so polluted,

and to take measures, including, if necessary, proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition or any person polluting any supply of water so as to be a nuisance or danger to health.

(2) Nothing in this section shall be construed as preventing the Minister from suing or enforcing the provisions of this section.

Duties of local authorities to prevent or remedy danger to health arising from unsuitable dwellings.

131.(1) Every local authority shall take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from over-crowding, or from the construction, condition or manner of use of any factory or trade premises and to take proceedings under the law or regulations in force in its area against any person causing or responsible for the continuance of any such condition.

(2) In exercise of the functions of subsection (1) a local authority shall consult with the Chief Inspector of Factories, Machinery and Construction Works or the Occupational Safety and Health Officer in respect of workplaces if the action is likely to interfere with the condition or manner of use of machinery or workplaces.

(3) Failure to consult shall not vitiate the exercise of the powers conferred by subsection (1).

What constitutes a nuisance.

132.(1) The following shall be deemed to be nuisance liable to be dealt with under this Part, any-

- (a) vehicle in such a state or condition as to be injurious or dangerous to health;
- (b) dwelling or premises or part thereof which is of such construction or in such a state or so situated or so dirty or so verminous or so damp as to be or likely to be injurious or dangerous to health or which is liable to favour the spread of any communicable disease;
- (c) street, road or part thereof, stream, pool, lagoon, ditch, gutter, watercourse, sink, watertank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soakaway pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung-pit, refuse-pit, slop-tank, ash-pit or manure heap, so foul or in such a state or so situated or constructed as to be offensive or to be or likely to be injurious or dangerous to health;
- (d) growth of weeds, long grass, trees, undergrowth, hedge, bush or vegetation of any kind which is or is likely to be injurious or dangerous to health, and any vegetable that of itself is or is likely to be dangerous to children or others either by its effluvia or through its leaves, seeds, fruits or any part of it being eaten;
- (e) well or other source of water supply or any cistern or other receptacle for water, whether public or private, the water from which is used or is likely to be used by human beings for drinking or domestic purposes or in connection with any dairy or milkshop or in, or in connection with the manufacture or preparation of any article of food intended for human consumption, which is polluted or otherwise liable to render any such water injurious or dangerous to health;
- (f) noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any gully, swamp, or watercourse, irrigation channel or bed thereof not approved by the local authority for the reception of such discharge;
- (g) collection of water, sewage, rubbish, refuse, ordure, or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of human beings or domestic animals, or of insects or of other agents, which are known to carry such parasites or which may otherwise cause or facilitate the infection of human beings or domestic animals by such parasites;

- (h) collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket, or any other article, and found to contain any of the immature stages of the mosquito;
- (i) cesspit, latrine, urinal, dung-pit, or ash-pit found to contain any of the immature stages of the mosquito;
- (j) stable, kraal, cow-shed or other building or premises used for the keeping of animals or birds which is so constructed, situated, used or kept as to be or likely to be offensive or injurious or dangerous to health;
- (k) animal so kept as to be or likely to be offensive or injurious to health;
- (l) accumulation or deposit of refuse, offal, manure, or other matter whatsoever which is or is likely to be offensive or injurious or dangerous to health;
- (m) accumulation of stones, timber or other material of any nature whatever if such accumulation harbours or is likely to harbour rats or other vermin;
- (n) premises in such a state or condition and any building so constructed as to harbour or be likely to harbour rats and other rodents;
- (o) dwelling or premises which is so overcrowded as to be or likely to be injurious or dangerous to the health of the inmates or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation and cooking facilities to the satisfaction of a medical officer of health;
- (p) building which is so situated, constructed, used or kept as to be or likely to be unsafe or injurious or dangerous to health;
- (q) occupied dwelling for which such a proper, sufficient and wholesome water supply is not available within such reasonable distance as under the circumstances it is possible to obtain;
- (r) factory or trade premises or workplace not kept in a cleanly state and free from offensive smell arising from any drain, privy, water-closet, earth-closet, or urinal, or not ventilated so as to destroy or render harmless and in offensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be or likely to be injurious or dangerous to the health of those employed therein;
- (s) factory or trade premises causing or giving rise to smell or effluvia which are or are likely to be offensive or injurious or dangerous to health;
- (t) area of land kept or permitted to remain in such a state as to be offensive, or liable to cause any infection, communicable or preventable disease or injury or danger to health;
- (u) chimney sending forth smoke in such quantity or in such manner as to be or likely to be offensive or injurious or dangerous to health;
- (v) cemetery, burial place, crematorium or other place of sepulture so situated or so crowded or otherwise so conducted as to be or likely to be offensive or injurious or dangerous to health;

- (w) gutter, drain, chute, stack pipe, down spout, water-tank or cistern which by reason of its insufficiency or its defective condition causes or is likely to cause damp in any dwelling;
- (x) deposit of material in or on any building or lane which causes or is likely to cause damp in any building so as to be or likely to be dangerous or injurious to health;
- (y) dwelling, public building, trade premises, workplace, workshop or factory not provided with sufficient and sanitary latrines or facilities;
- (z) any noise made by any person from any premises or from any place at or near residential dwellings or could be heard in the dwelling house including noise from any equipment, appliance or device, which noise is generated or made in amounts or volume and manner as to be offensive, or injurious or dangerous to health; or
- (aa) other condition whatever which is or is likely to be offensive, injurious or dangerous to health.

(2) No person shall keep cattle, pigs and such other animals as they may be prohibited by the Minister by notice published in the Gazette, within the boundary of a town or city without permission from the Minister, except in a pound.

Notice to remove nuisance.

133.(1) A local authority or a medical officer of health, environmental health officer or such authorised officer, if satisfied of the existence of a nuisance, may serve a notice on the author of the nuisance or, if the author cannot be found, then on the occupier or owner of the dwelling or premises on which the nuisance arises or continues requiring the author to remove it within the time specified in the notice and to execute such works and do such things as may be necessary for that purpose and if the local authority or medical officer of health thinks it desirable, but not otherwise, specifying any works to be executed to prevent a recurrence of the said nuisance.

(2) If the nuisance arises from any want or defect of a structural character, or the dwelling or premises is unoccupied, the notice shall be served on the owner.

(3) If the author of the nuisance cannot be found or it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the local authority shall remove the nuisance, and may do what is necessary to prevent the recurrence thereof.

Procedure in case owner fails to comply with notice.

134.(1) If the person on whom a notice to remove a nuisance has been served under section 133 fails to comply with any of the requirements thereof within the time specified, or if the nuisance although removed since the service of such notice, in the opinion of the local authority or such other authorised officers, is likely to recur on the same premises, the local authority or such other authorised officer may cause a complaint relating to such nuisance to be made before a magistrate and the magistrate shall thereupon issue a summons requiring the person on whom the notice was served to appear before a magistrate's court.

(2) If such court is satisfied that the alleged nuisance exists, or that although removed it is likely to recur on the same premises, the court shall make an order -

- (a) on the author thereof, or the occupier or owner of the dwelling or premises or workplace, as the case may be, requiring such person to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose; or
- (b) prohibiting the recurrence of the nuisance and directing the execution of any works necessary to prevent the recurrence; or
- (c) both requiring removal and prohibiting the recurrence of the nuisance.

(3) The court may by such order impose a fine not exceeding one thousand Emalangeni on the person on whom the order is made and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal or prohibition of the nuisance.

(4) Before making any order, such court may, if it thinks fit, adjourn the hearing or further hearing of the summons until an inspection, investigation or analysis in respect of the nuisance alleged has been made by some competent person.

(5) If the nuisance proved to exist is in the judgement of such court such as to render a dwelling unfit for human habitation, the court may issue a closing order prohibiting the use thereof as a dwelling until in its judgement the dwelling is fit for that purpose.

(6) Such court may further order that no rent shall be due or payable by or on behalf of the occupier of such dwelling in respect of the period in which the closing order exists.

(7) If such court is satisfied that such dwelling has been rendered fit for use as such it may terminate the closing order and by a further order declare the dwelling habitable, and from the date thereof such dwelling may be let or inhabited.

(8) Notwithstanding any order mentioned in subsection (7), further proceedings may be taken in accordance with this section in respect of the same dwelling in the event of any nuisance occurring or of the dwelling being again found to be unfit for human habitation.

(9) Nothing in this section shall be construed as preventing the Minister from doing any of the powers conferred on a local authority, including the amending, by notice published in the Gazette, the fine.

(10) The Minister may make any regulations for the purposes of sections 129 to 134 inclusive, to be published in the Gazette, which regulations may prescribe offences and penalties.

Offences and penalties to nuisance.

135.(1) The Minister, the local authority and the court may, separately, make orders to be complied with by any person to whom the order is directed, relating to sections 132, 133 and 134.

(2) Any person who fails to comply with an order made under section 132, 133, or 134, unless that person satisfies the court that the person has used all diligence to comply with such order, commits an offence and liable on conviction to a fine not exceeding three thousand Emalangeni and to a further fine not exceeding fifty Emalangeni for every day during which the nuisance continues, or to imprisonment not exceeding thirteen months.

(3) The local authority may in such case enter the premises to which any such order relates and remove the nuisance and do whatever may be necessary in the execution of such order and may recover the expenses incurred by it in any competent court from the person on whom the order is made.

Court may order local authority to execute works in certain cases.

136. If it appears to the satisfaction of the court that the person by whose act or default the nuisance arises, or the owner or occupier of the premises, is not known or cannot be found, the court may at once order the local authority to execute the works thereby directed and the cost of executing the same shall be a charge on the property on which the said nuisance exists.

Power of sale.

137. Any matter or thing taken away by a local authority in removing any nuisance under this Part may be sold by public auction; and the money arising from the sale may be retained by the local authority, and applied in payment of the expenses incurred by it in respect of such nuisance, and the surplus, if any, shall be paid, on demand, to the owner of such matter or thing if the person establishes that person's claim thereto within two years from the date of such sale, failing which such surplus shall become part of the Consolidated Fund.

Persons jointly responsible for nuisances may be proceeded against.

138. (1) If any nuisance liable to be dealt with under this Part appears to be wholly or partly caused by the acts or defaults of two or more persons, a local authority may institute proceedings against any one of such persons or may include all or any two or more of them in one proceeding, and any one or more of such persons may be ordered to remove the nuisance, so far as it appears to be caused by that person's or their acts or defaults, or may be prohibited from continuing any acts or defaults which contribute to the nuisance, or may be fined or otherwise dealt with notwithstanding that the acts or defaults of any one of such persons would not separately have caused a nuisance; and the costs may be distributed as may appear to the court to be fair and reasonable.

(2) Proceedings under subsection (1) against several persons included in one complaint shall not abate by reason of the death of any of the persons so included, but all such proceedings may be carried on as if such deceased person had not been originally so included.

(3) If only some of the persons by whose act or default any nuisance has been caused or partly caused have been proceeded against under this Part, they shall, without prejudice to any other remedy, be entitled to recover from any other persons who were not so proceeded against and by whose act or default the said nuisance was caused or partly caused a proportionate part of the costs of and incidental to such proceedings, abating such nuisance, any fine and costs ordered to be paid in such proceedings.

Rights of members of the public to complain against nuisance.

139. (1) Any individual person or group of persons who allege that a public health nuisance exists, may notify the local authority supported by a report from an environmental health officer or such other authorised officer, and if the local authority fails within a reasonable time to rectify or remedy the situation, such person or persons may institute court processes against the local authority or such author of the nuisance.

(2) Where the court is satisfied that the persons making a complaint under this section had reasonable grounds for doing so, the court may, when making an order for the removal of the nuisance, also order the local authority to pay any expenses or costs incurred by such person or persons instead of ordering the author of the nuisance to pay the same.

(3) The court may likewise order any person whose complaint appears to it to be frivolous or vexatious or dubious to pay the costs and expenses incurred by the local authority or person who has answered the complaint.

Examination of premises.

140.(1) The local authority or any of its officers, a medical officer, an environmental health officer or a health inspector may at all reasonable times enter any building or premises for the purpose of examining it to ascertain whether any nuisance exists therein, and any of its officers may, if necessary, open up the ground of such premises and cause the sewers to be tested or such other work to be done as may be necessary for the effectual examination of the said premises.

(2) If no nuisance is found to exist, the local authority or such other person mentioned in this section shall restore the premises at its own expense or that person's expense.

Demolition of unfit buildings.

141.(1) If a nuisance is proved to exist with respect to a building and the court is satisfied that such building is so dilapidated, or so defectively constructed, or so situated, that repairs to or alterations of it are not likely to remove the nuisance and make such dwelling fit for human habitation, the court may order the owner thereof to commence to demolish the building on or before a specified day, being at least one month from the date of issuing the order, and to complete the demolition and to remove the materials which comprised the same from the site before another specified day.

(2) If any person fails to comply with an order for demolition made under subsection (1) that person commits an offence and shall be liable to pay the daily fine provided in section 144 (2), and the local authority may cause the building to be demolished and may recover from the owner the expense incurred in doing so after deducting the net proceeds of the sale of the materials, which the local authority may sell by auction.

(3) The court shall give notice to the occupier of a building in respect of which such order has been issued requiring that person to move therefrom within a time to be specified in such notice.

(4) If any person fails to comply with such notice given under subsection (3) or enters the building or premises after the date fixed by the court for the commencement of the demolition thereof, except for the purpose of demolition, that person commits an offence.

(5) No compensation shall be payable by the local authority to the owner or occupier of any building in respect of such demolition, and from the date of such demolition order no rent shall be due or payable by or on behalf of the occupier in respect of such building.

(6) Demolition of a building under this section shall be carried out in accordance with the Building Act, No. 34 of 1968 or its successor, and the order of the court shall be deemed to be a permit to demolish under that Act.

Saving as to other legislation relating to nuisances.

142. Nothing in this Part shall prevent a local authority from taking steps in terms of any other law relating to nuisances in force within its area or rendering such law invalid in so far as it provides for nuisances.

Cost of execution of provisions relating to nuisances.

143.(1) All reasonable costs and expenses incurred in serving a notice, making a complaint or for anything done under sections 142 and 143, or in carrying the order into effect, shall be deemed to be money paid for the use and at the request of the person on whom the order is made, or, if no order is made but the nuisance is proved to have existed when the notice was served or the complaint made, then of the author of the nuisance.

(2) Such costs and expenses incurred in relation to any such nuisance may be recovered as a civil debt, and the court shall have power to divide such costs and expenses between the authors of the nuisance as to it may seem just.

(3) If, in accordance with this Act, a local authority has itself abated or removed a nuisance or done what is necessary to prevent a recurrence thereof, and if no owner or occupier of the premises can be found, or appears or pays the expenses thereby incurred within six months after the completion of the removal or abatement of such nuisance, the court may order the premises upon which the work has been done, or any part thereof, or any movable property found thereon, to be sold by public auction, and the amount realised by such sale shall be applied in defraying the said costs and expenses, and the balance, if any, paid over to the owner or occupier if such owner or occupier establishes the claim thereto within two years after the date of such, failing which such balance shall become part of the Consolidated Fund.

Buildings used for storage of food.

144.(1) A building which is regularly used for the storage of food for the purposes of trade shall be of such material and so constructed as to render it rat-proof and vermin-proof.

(2) If, a building intended, or being used, for the storage of food for the purposes of trade is either in a state of disrepair or, by reason of its design or construction or defective materials, does not afford sufficient protection against rats or vermin invasion, the local authority may, by written notice, require the owner to effect specified repairs and alterations within a stipulated time, and, if the notice is not complied with, the local authority may enter the premises of the warehouse or other building and effect the repairs and alterations and recover the cost of effecting the repairs and alterations from the owner.

(3) If a medical officer of health considers that food stored for the purposes of trade is insufficiently protected against rats, vermin or pollution, such officer may, by written notice, give the occupier of the building instructions for the better protection of the food, and shall in such notice state a time within which the instructions are to be complied with.

(4) Any person who fails to comply with a notice given under this section commits an offence and liable, on conviction, in the case of an offence under -

- (a) subsection (2) to a fine not exceeding three thousand Emalangeni or six months' imprisonment or both; and
- (b) subsection (3) to a fine not exceeding two thousand Emalangeni or three months' imprisonment or both.

Rooms used for storage of food.

145.(1) No person shall sleep or reside in a kitchen or any other room in which food intended for sale is prepared or stored.

(2) If a medical officer of health or such other authorised person considers that premises adjoining the kitchen or room referred to in subsection (1) is being used for the purposes of sleeping and that food in the said kitchen or room is thereby likely to become contaminated or otherwise made unwholesome; such officer may serve upon the owner or occupier of those premises, or both, a notice calling upon them take such necessary measures within the time specified in the notice.

Powers of entry and inspection, etc.

146. For the purpose of making an inspection or doing the work or other thing necessary for, or incidental to, the carrying out of the functions under this Act, a medical officer of health or an officer or person to whom powers have been delegated under this Act in writing, a health inspector, an administrative officer, or a local authority or an officer or a person to whom it has been delegated powers under this Act in writing, may, at any reasonable time when the inspection, work or other thing may be properly carried out, enter any land or premises by force if necessary.

Special powers of medical officer of health.

147.(1) If a medical officer of health or such other authorised person reasonably considers it necessary for the protection of public health, the officer may -

- (a) require the medical examination of any person who is in any premises where milk or any other dairy product or other article of food intended for sale is prepared, collected, kept or sold, or of such person who is, or has been, or will be engaged in the preparation, collection, keeping, conveyance or distribution of such milk, product or article; and
- (b) prohibit any person who keeps cows, or a dairyman or any purveyor of milk, or any other person, to employ, in connection with the preparation, collection, keeping, conveyance or distribution of milk or other dairy product or other article of food, a person found to be suffering from a communicable disease and for so long as that person is so suffering.

(2) Any person who, without reasonable excuse fails to submit to a medical examination required of that person under subsection (1)(a), or contravenes or permits any other person to contravene subsection (1)(b), commits an offence.

Other duties of a local authority.

148. Without prejudice to any section of this Part it shall be the duty of every local authority or responsible authority to take all necessary and reasonable practicable measures for preventing or for causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection of or occupation of unhealthy dwelling, public and other building or premises or the erection of dwellings, public and other building on unhealthy sites or sites of insufficient extent, or from overcrowding, or the construction and manner of use of any factory, workplace or trade premises, and to take proceedings under the law or regulations in force in its area of jurisdiction against any person causing or responsible for the continuance of any such condition.

Prohibitions.

149.(1) Within every local authority's area or jurisdiction it shall be an offence for any person-

- (a) to erect any dwelling constructed on the back-to-back system;
- (b) to erect any room intended to be used as a sleeping or living or working room which is not sufficiently lighted and ventilated by a window or windows of a total area of ten per centum of the floor area, and sufficiently ventilated by air vents and by windows capable of being opened to an extent of five per centum of the floor area, such windows and vents being so placed as to secure through or cross ventilation; or

- (c) to erect any dwelling on a ground containing street sweepings, rubbish, refuse or other matter liable to decomposition until the approval of the local authority has been obtained and until also measures for safeguarding public health have been taken to the satisfaction of the local authority or environmental health officer.

(2) Any person who contravenes any provision of this section commits an offence and liable to a fine not exceeding ten thousand Emalangeni and to a further fine not exceeding fifty Emalangeni for every day during which such contravention continues after the date fixed in any written notice in respect thereof from the local authority or environmental health officer, or to imprisonment for a period not exceeding two years and such additional number of days the court may determine for the continuing offence.

Regulations and orders.

150.(1) The Minister may make regulations and orders on all or any of the following matters -

- (a) the inspection of land, dwellings and buildings, and for securing the keeping of the same clean and free from public health nuisance and so as not to endanger the health of the inmates or public health;
- (b) the construction of buildings, including matters relating to the provision of
 - (i) proper lighting and ventilation;
 - (ii) measures for excluding insects and vermin;
 - (iii) sanitary conveniences;
 - (iv) other matters and measures necessary or desirable to safeguard the health of the inmates and public health;
- (c) the prevention of overcrowding in any dwelling or building, including the prohibition of the use of any dwelling or building or any part of a dwelling or building for sleeping purposes;
- (d) the prohibition or control of the cooking, preparation or storage of food in any building or part of a building where the facilities thereof are inadequate;
- (e) the periodical redecoration or painting of dwellings or other buildings and the cleansing or clearing of land attached thereto and the removal of rubbish or refuse therefrom by the owner or occupier of the dwellings or other buildings;
- (f) the drainage of land, premises, the disposal of offensive liquids and the removal and disposal of refuse, manure and any other waste matter;
- (g) the standard or standards of purity of any effluent liquid containing waste, sewage or other offensive matter which might be a danger to the public and the conditions on which such effluent may be used for irrigation or other purposes so as not to endanger the public health;
- (h) the establishment and activities of factories and trade premises and workplaces which are liable to cause offensively smells or effluvia or to discharge liquid or other by-products or waste liable to cause such smells or effluvia or to pollute streams, which are otherwise liable to be a nuisance, injurious or dangerous to public health;

- (i) the carrying out of health impact assessment of development projects so as to establish possible health opportunities or requirements or impacts; and
- (j) the establishment of committees to ensure compliance with the provisions of this Part.

(2) Any person contravening any regulation or order made under subsection (1) commits an offence and liable to a fine not exceeding ten thousand Emalangeni or, in the case of a continuing offence, to a further fine not exceeding fifty Emalangeni for every day during which the offence continues after the date fixed in any written notice in respect thereof from a local authority, environmental health officer or any other authorised officer, or to imprisonment for a period not exceeding three years and to such additional number of days for the continuing offence.

(3) The regulations and orders made under this section may specify or prescribe offences and penalties and may further amend the amount of fines.

Offences and penalties.

151. Any person who fails to comply with a requirement, order or regulation made under this Part or who contravenes a provision of this Part commits an offence and liable, on conviction, where a punishment is not stated, to a fine not exceeding fifteen thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment for a period not exceeding three years.

PART XIV: PUBLIC HEALTH REQUIREMENTS RESPECTING TRADE PREMISES

Interpretation of trade premises.

152. In this Part, unless the context otherwise requires -

“trade premises” means any premises or place used or intended to be used for carrying out trade or business, respecting -

- (a) the manufacture, storage, conveyancing, transportation, selling, buying, feeding or such similar activities, of things meant or intended for human consumption;
- (b) products, by-products or part thereof intended or which is eventually consumed by human beings;
- (c) a thing or article used in the preparation of, or used whilst preparing, another thing that shall be consumed by, or shall be taken into, or inserted into, or infused into, a human being.

Power of the Minister.

153. The Minister in consultation with other relevant Ministries may, by notice published in the Gazette, declare a thing or place or a particular thing or place, for purposes of this Part to be trade premises and may further extend or limit the meaning of trade premises.

General health requirements for trade premises.

154. (1) In addition to any other law having a bearing or relevant to the matters or things dealt with in this Part, respecting trade premises, safety, health and public health at work places or other places, the following public health requirements shall apply and shall be complied with by any person involved in, or in charge of, or responsible for trade premises, or public health -

- (a) every trade premises shall have adequate sanitary conveniences, adequate and approved ventilation and lighting, adequate and wholesome water or water supply and where applicable approved drainage and sewerage;
- (b) no trade premises, where a structure or building exists, shall have a length which is less than six metres, a width of less than four and a half metre, and a height of less than two metres and seventy centimetres;
- (c) every trade premises shall be free of rodents and shall be rodent-proof;
- (d) the minimum distance, between any trade premises and a cattle kraal, cow shed, or any other such place, shall not be less than one hundred metres, and in the case of pigsty, the distance shall not be less than one hundred and fifty metres; and
- (e) paragraph (d) applies only to areas where the law permits the keeping of a cattlekraal, cow shed, pigsty or such similar things or places and where the law prohibits the keeping of such things or places no person shall contravene that law or bye-law or regulation and such prohibition shall be construed as if made under this Act for purposes of prosecuting an offender.

(2) The location, the siting and the surroundings of trade premises shall be governed by the following provisions -

- (a) the location or siting shall be such that the possibility of contamination, of food, articles or other things intended by the Part, is eliminated;
- (b) the ground surrounding the building, location or place shall be properly drained or sloped as to prevent the accumulation of water, waste water, rain water or any other dirt or unwanted and unhealthy substances or things;
- (c) rubbish, refuse, dirt, waste or such other similar things shall not be allowed or permitted to accumulate at the trade premises or to exist except in an approved and healthy manner and at an approved place conducive to health;
- (d) grass or weed shall be managed and kept short, provided it should be kept, to minimise the possibility of providing insects or rodents shelter or breeding places;
- (e) poultry and animals shall not be kept or allowed on trade premises where food and drink is processed, prepared or stored unless the Minister's consent is first obtained and such consent shall be published in the Gazette;
- (f) trade premises shall be kept clean and healthy, and no condition shall be permitted inside or outside or near the trade premises which shall make the trade premises unhealthy or unhygienic or a condition that shall make it difficult to keep the trade premises clean and hygienic; and
- (g) pit latrines shall be situated from a dwelling or trade premises by a distance permitted by the Minister or an environmental health officer.

(3) The floors of rooms or trade premises where food, drinks or such things as intended by this Part are prepared, kept, stored or sold shall be of such material as the Minister, or with the assistance of experts, may approve.

(4) In addition to subsection (3) the floors shall be impervious, non-corrosive, clean, smooth where necessary, and the places at the corners of walls or floors or where the walls and floors meet shall be such that there shall be no cracks, holes and no hiding places for vermin or dirt.

(5) In trade premises that have -

(a) walls -

- (i) the external walls shall be built of durable materials, such as burnt bricks, cement, stone or such materials approved by an environmental health officer or Minister, and provisions shall be made for moisture proofing;
- (ii) the interior walls or surface of such walls shall be of such manner that frequent cleansing is possible and may be smooth but shall be impervious, durable and washable and preferably with an oil paint finish; and
- (iii) the walls shall be painted or finished in washable paint of a light colour and shall be kept hygienic;

(b) a ceiling -

- (i) the finish of the ceiling shall be smooth and durable;
- (ii) the ceiling shall be dust-proof; and
- (iii) the ceiling shall be kept hygienic; and

(c) doors, windows and roofing -

- (i) the doors shall be of a type approved by an environmental health officer or the Minister or a building inspector designated by law as such;
- (ii) the outward windows shall have sills with a downward slope;
- (iii) the door posts, door and ceilings or other coverings or parts thereof which are not finished in tiles or other glazed materials shall have a smooth finish, painted with light washable paint and shall be kept clean and hygienic; and
- (iv) the window frames, door surface, pipes, beams, discharge pipes and such other places or things where dust may accumulate shall be painted in light colours and shall, at all times, be kept clean and hygienic.

(6) It shall be an offence to connect or join a dwelling house with trade premises unless first permitted by the Minister in writing or a building inspector designated as such by law in conjunction or collectively with the Minister.

(7) Trade premises that sell or serve food to the public or such selected members of the public shall have scullery for the purposes of washing utensils and an adequate supply of wholesome water and clean hot water.

(8) Every trade premises that sell food for human consumption shall have a source of supply of clean water for the food handlers to wash or cleanse their hands whilst handling such food.

Inspection of trade premises.

155. Subject to the provisions of this Act, an environmental health officer or such other authorised officer or person may, at appropriate and reasonable times, enter any trade premises and inspect such premises for -

- (a) hygienic standards and compliance with this Act;
- (b) state of repair of the premises;
- (c) condition of the food sold or handled therein; and
- (d) any other purpose prescribed in this Act or regulations made under this Act.

Closure of premises violating this Act or regulations.

156.(1) Subject to subsection (4), where an environmental health officer or such other authorised person, believes on reasonable grounds that the conditions or operations of or any trade premises are a danger or pose a danger to public health or contravenes the provisions of this Act, the officer or such authorised person may request the licensing authority to immediately suspend the trading licence of the premises until the conditions or operations are rectified to the satisfaction of the environmental health officer or such other authorised person or a court.

2) The environmental health officer or such other authorised person shall, simultaneously whilst requesting the licensing authority as provided in subsection (1), make and deliver a report to the local authority and a copy to the Minister requesting for the closure of the trading premises.

(3) The Minister, the local authority or the licensing authority may all make independent decisions and act upon, and a decision which is in conformity with the provisions of this Act or that which is reasonably concerned with public health shall prevail in as far as the matter is concerned and the Commissioner of Police shall ensure the compliance with the prevailing order.

(4) Where, in the opinion of an environmental health officer or such other authorised person, the conditions or operations of or in trade premises pose imminent danger to public health, the environmental health officer or such other authorised person shall order the premises to be closed forthwith and thereafter inform the Minister, the local authority and the licensing authority of the closure.

(5) Consequent to subsection (4), the trade premises shall remain closed until the conditions or operations are rectified to the satisfaction of the environmental health officer or such other authorised person or a court.

(6) A person affected or aggrieved by a decision to close or to keep open or to re-open trade premises may make an application to court, at the aggrieved or affected person's expense and litigation costs, to have the decision reviewed.

(7) No civil liability shall lie against the Minister, local authority, licensing authority, the environmental health officer or such other authorised person for or whilst doing an act or requirement or anything required or permitted by this Part or Act to be done by these persons.

Regulations.

157.(1) The Minister may, by notice published in the Gazette, make regulations and orders for the purposes of this Part.

(2) Without prejudice to subsection (1) the Minister in like manner to that subsection may make regulations and orders -

- (a) specifying minimum health requirements of or for trade premises and for the business carried therein and for specific businesses for specific trading premises;

- (b) exempting compliance with the minimum size requirements of certain trade premises in special circumstances;
 - (c) prohibiting and regulating which items, articles, or businesses may or may not be carried out in one trade premises; and
 - (d) prohibiting and regulating the sale of hazardous substances, including fertilizers, pesticides and other such chemicals, from certain trade premises.
- (3) The regulations and orders, made under this Part may prescribe offences and penalties.

Offences and penalties.

158. Any person who contravenes or fails to comply with a provision of this Part or regulation or order made under this Part commits an offence and liable, on conviction, to a fine not exceeding five thousand Emalangeni, which fine the Minister by notice published in the Gazette may amend, or in default to imprisonment, for a period not exceeding six months or to both fine and imprisonment.

PART XV: OCCUPATIONAL SAFETY AND HEALTH

Policy, regulations, orders and directives.

159.(1) For purposes of this Act the Minister, in close consultation or in collaboration with the Minister or department responsible for the Occupational Safety and Health Act, shall from time to time review legislation regarding occupational safety and health, and lay down in writing policies, regulations, directives and orders deemed necessary by the parties on occupational safety and health in order to ensure the most effective and practical way or action of protecting and compensating an employee or any person at a workplace and outside a workplace, whose health may be affected or put at risk by any action or omission done at a workplace.

(2) An employee who is injured, poisoned or suffers an occupational accident or disease or an occupational related accident or disease shall be adequately compensated by the employer or such other person the law may require so to do.

(3) An employee or other person who is aggrieved by a compensation assessment, may, within such time as may be provided in an applicable legislation, appeal to the Minister or to such other authority provided in any law.

(4) Where the Minister receives an appeal, the Minister shall within thirty days assist the aggrieved employee or such other person in any manner not inconsistent with the provisions of this Part, Act or other law.

(5) The Minister in collaboration with the Minister or department responsible for the legislation on occupational safety and health may make regulations and procedures for this Part with a view to avoiding any conflict which may arise between this Act and other legislation administered by the other Minister or department respecting the occupational safety and health of employees and other persons and the compensation for employees and other persons arising from occupational accidents, diseases, nuisance and pollution of whatever nature.

(6) Regulations and orders made under this section may prescribe offences and penalties.

Collaboration between the Ministry and other Ministries.

160.(1) There shall be established a system of communication and consultation between the Ministry and the Ministry and department responsible for the Occupational Safety and Health legislation and other ministries or other persons relevant for the purposes of this Act so as to ensure regular and effective exchange of information, actions and reporting.

(2) The department responsible for the legislation on occupational safety and health shall transmit on each and every month on a monthly basis or on such times as may be agreed between the Minister and the responsible department reports and statistics on occupational accidents, diseases, infections and afflictions and on occupational related accidents, diseases, infections, afflictions, chemical injuries and poisoning, injuries and such other related matters at workplaces or related to workplaces for the Minister's information and action if need be.

(3) The reports may be made on a prescribed form or manner which the Director of Health Services shall from time to time review and update and the report shall be used for purposes of information and action by the Minister in the furtherance of the purposes of this Act.

(4) Every medical officer or medical practitioner who has attended to a person who is injured, poisoned or suffers an occupational accident or disease or an occupational related accident, shall as soon as practicable make and deliver to the Commissioner of Labour a medical report based on the findings or results or expected results of the attended person.

Establishment of an Occupational Experts Committee.

161.(1) The Minister, for purposes of this Part, shall establish a committee to be known as an Occupational Experts Health Committee or to be known by any other name the Minister thinks appropriate on such terms and conditions by regulations published in the Gazette.

(2) The functions of the Committee shall be prescribed in the regulations establishing it and such functions shall include the principal functions of -

- (a) advising the Minister on occupational safety and health in Swaziland;
- (b) reviewing and advising the Minister on appropriate standards pertaining to occupational safety and health;
- (c) liaising or cooperating with other bodies on occupation safety and health, including cooperating with the Experts Committee established under the Occupational Safety and Health Act; and
- (d) deliberating on matters instructed by the Minister to deliberate on and within the time specified by the Minister.

(3) The Committee shall at least consist of the following persons -

- (a) the Deputy Director of Health Services;
- (b) a psychologist;
- (c) a chemical engineer or occupational hygienist;
- (d) an environmental health officer;
- (e) a mechanical engineer;

- (f) a medical practitioner or medical officer;
- (g) a nurse;
- (h) a laboratory technologist;
- (i) a legal adviser; and
- (j) an inspector or chief inspector appointed under an applicable legislation on occupational safety and health.

(4) The Committee shall be chaired by the Deputy Director of Health Services or one of the members in the event the Deputy Director of Health Services is absent.

(5) The Committee shall at least hold quarterly meetings at such places as the committee may agree upon or on a resolution or direction of the Minister.

Regulations.

162.(1) The Minister may make regulations for the purposes of this Part and such regulations shall be published in the Gazette.

(2) Without prejudice to subsection (1) the Minister, in close consultation with the Minister or department responsible for occupational safety and health, may make regulations -

- (a) regarding the handling, inspection and storage of radio-active materials;
- (b) monitoring and controlling of dust, smoke, minute particles and pollutants;
- (c) regarding the setting of standards on lighting and ventilation standards at work places;
- (d) pertaining to the provision of suitable protective clothing of employees engaged in specific tasks;
- (e) regarding noise levels or vibration and thermal stress;
- (f) in respect of sanitary conveniences, ventilation and lighting of workplaces, space area per an employee, water, water supply, disposal of waste generated from workplaces, and control of the pollution of the atmosphere by fumes or smoke and other substances from workplaces;
- (g) prohibition and regulating the use of dangerous chemicals and pesticides and such other like substances; and
- (h) generally for the better carrying out the provisions and the attainment of the objectives and purposes of this Part.

(3) Regulations made under this section may prescribe offences and penalties.

Discipline.

163. Any person or body empowered by this Part to do what ought to be done and that person or body fails or refuses so to do shall be liable to discipline by the appropriate authority, including the Parliament, or its committees so empowered to discipline defaulting or erring persons or bodies.

Offences and penalties.

164.(1) Any person, who fails or refuses to comply with or who contravenes a provision or requirement of this Part or regulations or orders made under this Part, commits an offence and shall be liable, on conviction, where a punishment is not specified, to a fine not exceeding twenty thousand Emalangeni or, in default, to imprisonment for a period not exceeding two years.

(2) Where a responsibility is placed on a ministry, department or body it shall, for purposes of an initial discipline, be deemed that the responsibility is placed on the Minister or Minister responsible for that other ministry or department.

PART XVI: GENERAL PROVISIONS

Powers of entry and inspection and penalties for obstruction.

165.(1) Any public health officer or environmental health officer of the Ministry, or any police officer or any other person generally or specially authorised by the Minister, and any environmental health officer or any other person authorised by a local authority, may at any reasonable time for the proper execution of the duties provided by or in this Act, enter any land, place, premises or thing to make any inspection, or any thing which such person is required or authorised by this Act or any other law to do, if such inspection, work, or thing is necessary for or incidental to the performance of such person's duties or the exercise of such person's powers.

(2) Any person, who fails to give or refuses access to any officer or person so authorised under subsection (1) entry, execution or investigation as stated or required under this section or Act, or who obstructs or hinders such authorised person or officer in the execution of the duties given or required under this Act, or who fails or refuses to give information that may lawfully be required and be given to such authorised person or officer, or who gives such authorised person or officer false or misleading information knowing it to be false or misleading, commits an offence.

Protection of officers and other persons.

166. No report made or action taken or thing done, by the Minister, the Director of Health Services, environmental health officer or any generally or specially authorised officer or person or body of persons or a local authority, in the exercise of any powers conferred or in the performance of any duty imposed by this Act, shall subject any of the named persons in their personal capacities or otherwise to any legal proceedings whatsoever, provided such report or action was made or taken in good faith and without negligence.

Protection of the Government, local authorities and other persons.

167.(1) Whenever and whilst in exercise of any powers conferred, or the performance of a duty imposed by this Act or any other law relating to public health, on the Government, Minister, any officer or any authorised person thereof, or a local authority, any officer or authorised person thereof, it is alleged by any person that the Government or any of the other named persons have caused injury to any person or damage to any property, or otherwise to have detrimentally affected the rights of any person whether in respect of property or otherwise, it shall be a defence in such legal proceedings brought against the Government or such other named persons that the defendant or respondent, as the case may be, used the best known or the only or the most practicable methods in the exercise of the powers or the performance of the duties as earlier stated.

(2) In the case of such proceedings against a local authority or such other authorised officer or person, a certificate signed by the Principal Secretary or the Director of Health Services or the Director or Veterinary Services that the defendant or respondent has, with regard to all the circumstances, used the best known or the only or the most practicable and available methods, shall be accepted by a court as prime facie evidence of the fact until the contrary is proved.

(3) The Principal Secretary or Director of Health Services or the Director of Veterinary Services shall not sign the certificate referred to in subsection (2) if the Principal Secretary or the Director of Health Services or the Director of Veterinary Services does not believe that the best known or the only or the most practicable methods were used.

Establishment of public laboratories.

168(1) The Minister may, subject to such conditions as the Minister may think fit and proper in each case, determine the establishment or cause to be established laboratories or other institutions engaged in carrying out research or investigations regarding human diseases or any other issues relating to public health.

(2) Subject to the conditions the Minister may think fit and proper and each case being determined by its own particular circumstances, the Minister may contribute or cause to be contributed towards costs incurred or to be incurred by a local authority, educational institution, public voluntary society or mission or such other non-governmental body, in connection with maternity welfare, child welfare, training of nurses, public health nurses, environmental health officers, meat inspectors, doctors or any other matters not mentioned in this section but concerned with or relating to public health.

Reciprocal notification and consultation between ministries.

169.(1) There shall be a system of reciprocal notification as to outbreaks or threatened outbreaks of diseases liable to affect (the public health) both human beings, birds and animals, and such other diseases and of consultation as to the making of regulations or the taking of measures in connection therewith, between the Ministry and the Ministry or department responsible for -

- (a) veterinary services;
- (b) bulk water, rural water, urban and peri urban water supplies;
- (c) importation of food and other consumables;
- (d) occupational safety and health of employees; and
- (e) other bodies, person or ministries and departments as the Minister thinks necessary.

(2) The Minister shall take the first initiative to ensure the implementation and successful operation of subsection (1).

(3) Whenever, under this Act, it is necessary to determine the presence or absence of a disease in a live animal, only the certificate of an approved veterinary surgeon shall be evidence.

Collaboration and liaison with other sector agencies on public health issues.

170.(1) There shall be, any person being the initiator, a close collaboration and liaison between the Ministry and other sector agencies, including local authorities, voluntary organizations, non-governmental organization (national and international), missions, men associations, and women associations, that perform duties on public health or related to public health, including the United Nations agencies and bodies such as World Health Organization, UNICEF and others.

(2) Whenever desirable, the Minister may establish or cause to be established committees, on such terms and conditions as the Minister alone or with another minister think fit, to foster collaboration and effective communication and consultation between the Ministry and various agencies, persons, ministries or bodies on issues pertaining to public health.

Rights of persons to recover for damages suffered.

171. Subject to the provisions of this Act respecting compensation, liability and non liability of the Government and its officers, local authorities and its officers and other authorised persons so empowered by this Act to perform certain duties and functions, nothing in this Act shall be construed as depriving any person of any right that person may possess to institute legal proceedings and to obtain a specific performance order or to obtain damages in a competent court of law for loss or injury sustained through the negligence of any person to whom a duty is imposed by this Act.

Fraudulent conduct respecting certificates specified under this Act.

172. Any person who -

- (a) for the purposes of obtaining a certificate under this Act, makes a false statement or is a party to any false pretence or conduct, knowing it to be false;
- (b) forges or falsifies a certificate under this Act, or keeps or accepts any such forged or falsified certificate knowing it to be forged or falsified; or
- (c) uses or attempts to use a forged or falsified certificate, or uses or attempts to use any other document or certificate under this Act, knowing it to be not a certificate or being a forged or falsified certificate or document,

commits an offence and is liable, on conviction, to a fine not exceeding ten thousand Emalangeni, which fine the Minister may amend by notice published in the Gazette, or to imprisonment for a period not exceeding two years or to both such fine and imprisonment.

Powers of a local authority to act outside its jurisdiction.

173. Nothing in this or any other law governing jurisdiction of operation of local authorities shall, for purposes of this Act, be construed as preventing a local authority from exercising any power or performing any duty on public health under this Act by reason that in exercising such power or performing such duty on public health, it shall do some act or thing or incur expenditure, outside its area of jurisdiction.

Supremacy of this Act.

174.(1) Save as is specially provided in this Act, the provisions of this Act shall be deemed to be in addition to and not in substitution for any provisions of any other law respecting public health which are not in conflict or inconsistent with this Act.

(2) Pursuant to subsection (1) and subject to subsection (3) where there arises minor inconsistencies or conflicts between this Act and another Act respecting public health, it shall be lawful to allow or make modifications of those inconsistencies or conflicts to comply with the provisions of this Act.

(3) Where the inconsistencies or conflicts can not be cured under subsection (2), the provisions of this Act shall prevail.

The burden of proof in respect of knowledge of infection or disease.

175.(1) In any legal proceedings, criminal or civil, under this Act, relating to an infection or infecting or communicable disease or transferring a communicable disease or infection, or an article or thing alleged to have been exposed to or contaminated with an infection or disease, whenever it is an issue in the proceedings that the accused or the defendant knew that the accused or defendant or any other person was infected with such disease or infection, or that the article or thing was so exposed it shall be deemed that the accused or defendant has such knowledge until the accused or defendant satisfies the court to the contrary.

(2) For purposes of removing doubt, the person who may be the accused or defendant, as the case may be, shall have the onus of convincing the court that as an accused person or defendant that person did not have the knowledge of the existence of any infectious disease or communicable disease or infection in the person of the accused or defendant or on such other similar circumstances.

Defect in form not to invalidate.

176. A defect in the form of any notice given or order made under this Act shall not invalidate or render unlawful the administrative action, or be a ground for exception to any legal proceedings which may be taken in the matter to which such notice or order relates, provided the requirements thereof are substantially and intelligibly set forth.

Service of Notices.

177.(1) If under this Act any notice or other document required to be given to any person, the same shall be deemed to be sufficiently served if sent by registered post addressed to that person's last known place of abode or left thereat with that person personally or with some adult inmate thereof, and in the case of a notice, order or other document required to be given to an owner or occupier of land or premises whose abode after inquiry, is unknown, the same shall be deemed to be sufficiently served if posted up in some conspicuous place on such land or premises.

(2) It shall not be necessary in any notice, order or other document given to an owner or occupier of land or premises to name the person but the notice, order or document may describe the person as owner or occupier of the land or premises.

Prohibition on smoking of tobacco in certain public places.

178.(1) The Minister, by notice published in the Gazette, may prohibit the smoking of tobacco in certain public places, or part of such public places, taking into consideration the rights of smokers and non-smokers.

(2) The Minister may further, where deemed fit, demarcate or designate areas in public places as smoking areas and non-smoking areas.

(3) The Minister may make regulations, published in the Gazette, in respect of the importation, storage, display, advertising, selling and delivering whether for a charge or not of tobacco and tobacco smoking or consumption or intake in whatever form or manner or for anything in respect of tobacco.

(4) The notices, orders or regulations made under this section may prescribe offences and penalties, which penalties may include, the offender being sent to rehabilitation centres or commitment to community work.

(5) In the event or period before the Minister prescribes penalties or anything in terms of this section, any person who fails to comply with a notice, order or regulation, issued by a competent authority, including an administrator of a public place, commits an offence and shall be committed to a sentence to be determined by the court, which sentence may be a fine or community work for such number of hours or days as the court thinks fit.

Prohibition of smoking tobacco and other acts by young persons.

179.(1) No person shall sell or deliver tobacco in a form intended for smoking or inhaling, whether as a cigarette, cigar or such similar form, to a person under the age of eighteen years.

(2) No person under the age of sixteen years shall smoke tobacco or product of tobacco in whatever form.

(3) The Minister may make regulations or orders in respect of protecting expectant mothers, unborn babies and infants from direct or indirect effects of tobacco smoking.

(4) The Minister may make any regulations for the purposes of this section.

(5) Any person who contravenes subsections (2) or (6) or (7) commits an offence and on conviction shall be liable to a sentence to be determined by a court, which sentence may be committal to a rehabilitation centre or community service or any appropriate sentence the court thinks fit.

(6) It shall be an offence to inhale, consume or ingest or drink any substance of whatever description with the intention of being intoxicated, drunk, loss of sobriety or be mentally incapacitated unless the legal use of that substance is intended for that purpose and the law permits such use and by that person.

(7) It shall be an offence for a person under the age of eighteen years or a person attending school or other educational institution excluding a college, a university or such like institutions of higher learning to be drunk, or intoxicated or to have taken an alcoholic drink or beverage in excess of 0.8 per centum in the blood when expressed in milligrams per one hundred millilitres of blood, in a public place.

(8) Any person who contravenes subsection (1) or any other provision of this section where a penalty is not specified shall, on conviction, be liable to a fine not exceeding two thousand Emalangeni, which fine the Minister may amend by notice published in the Gazette, or to imprisonment for a period not exceeding six months.

(9) In addition, a person convicted under subsection (8) may be liable to have that person's trading licence revoked under this section or some other law.

Protection of women and children.

180.(1) In the interest of promoting public health amongst all the people of Swaziland and in particular the women and children the Minister alone or in consultation with the Minister responsible for women affairs or issues shall, in addition to subsection (2), (3) and (4) of this section, make regulations and orders in respect of affirmative action concerning women in particular or general, pregnant women, children and persons under the age of majority.

(2) A pregnant woman shall not be subjected to strenuous, dangerous or difficult work by any person, including a parent, husband, in-laws, employer or any other person for that matter.

(3) No person shall, without a legally or medically accepted reason or excuse, assault or cause to be assaulted a pregnant woman, or expose such woman to dangerous drugs, radio-active material or substance or condition that may be injurious or dangerous to that woman's health or the baby's health or the yet unborn baby's health.

(4) No person shall deny treatment or vaccination or any medical care, when it is necessary or required, to any child or woman.

(5) Any person who contravenes a provision of this section or regulations or orders made under this section commits an offence.

Protection for all.

181.(1) In the interest of a healthy nation and in the interest of public health the Minister alone or in conjunction or consultation with other ministers or other bodies, including men or women bodies, shall make regulations respecting affirmative action for disadvantaged persons or group or class of such persons irrespective of gender.

(2) The Minister shall make regulations to discourage and outlaw any conduct of bodies or organizations that seek to create hatred or enmity between the sexes, due regard being given that hatred may lead to mental disorders.

(3) Every person shall have access to medical care or treatment notwithstanding the fact that the person is indigent and the Minister, for purposes of this subsection, shall ensure the Government provides for the medical treatment and care for the indigent and the Minister for this purpose may set standards to be used or guidelines to be used for classifying and identifying persons who are indigent.

(4) The Minister, for the purposes of affirmative action, shall make regulations respecting public health of the aged persons, the terminally ill persons, disadvantaged persons, indigent, homeless persons, mentally sick persons and such other persons the Minister thinks fit.

(5) No person shall sell or deliver to any person under the age of eighteen years intoxicating liquor unless the Minister in writing has so authorised, or generally by regulations published in the Gazette has so authorised.

(6) No person shall be drunk in or near a roadway, highway, freeway or railway line, or shall be found on examination to have an alcohol content exceeding 0.8 per centum in that persons blood when expressed in milligrams per one hundred millilitres of blood.

(7) A police officer or citizen may on reasonable suspicion detain or cause to be detained, or examined by a nurse or doctor, any person suspected to have contravened subsection 6 of this section and the detention shall be for a reasonable time and in a place of safety and no criminal or civil liability shall lie against such officer or citizen.

(8) Regulations made under this section or Act shall be published by the Minister in the Gazette and may prescribe offences and penalties.

(9) Nothing in this section or Act shall be construed as limiting or prohibiting the Minister to issue orders and make internal regulations which may not be published in the Gazette for administrative purposes.

Regulations in respect of traditional healers and medicine.

182.(1) The Minister shall make regulations regulating the practice of traditional healers and such like healers for the purposes of public health.

(2) The Minister shall establish a communication system between the Ministry and the traditional healers or their association or body of such persons.

(3) The Minister may make regulations with a view of harmonising the practice of traditional healers with that of imported medicine practice and for that reason may hold consultative discussions whenever necessary for the improvement of public health.

(4) The Minister or such other authorised body shall keep a register of all practising traditional healers.

(5) No traditional healer shall practice as such without a practice certificate issued by the Minister and the certificate shall be valid for a period not exceeding two years from the date of issue or such time as may be determined by the Minister.

(6) The Minister may refuse to issue the certificate if the Traditional Healers Association or such other representative body of traditional healers objects in writing to the Minister and the Minister is satisfied of the reasons advanced for the objection.

(7) The Minister shall, whenever necessary, establish a joint research on traditional medicines between the traditional healers or their representative body and the Ministry or such other person or institution concerned with public health.

(8) Regulations made under this section may prescribe offences and penalties and fees or anything the Minister thinks fit for the purposes of public health.

(9) Any person who contravenes subsection (5) or any regulations made under this section commits an offence.

Appropriate facilities for the disabled persons.

183.(1) At every workplace, including a public place, factory, trade premises, school, office, place of entertainment, hotel, parking bay, bus stop, sanitary facility or such other place frequented by the public shall be provided with appropriate facilities for the disabled persons by the person or persons responsible for such places or things.

(2) Where there is doubt or denial of responsibility for purposes of subsection (1) the Minister may determine which person shall be the responsible person.

(3) The Minister may make regulations, published in the Gazette, in respect of disabled persons in connection with their welfare and public health.

(4) The regulations made under this section may prescribe offences and penalties.

Regulations in respect of disasters.

184.(1) The Minister shall, on the occurrence of a national disaster of whatever nature impacting on public health, take appropriate action to mitigate the adverse effects of that disaster on public health in consultation with existing national disaster structures.

(2) Without prejudice to subsection (1) the Minister, alone or in conjunction with other persons or bodies, may make orders or regulations published in the Gazette in respect of national disasters impacting on public health.

(3) For purposes of this section the Minister may establish committees or commissions on such terms and conditions as the Minister thinks just and in consultation with the Minister responsible for Finance the Minister may, for the purpose of this section, establish a Special Fund.

Regulations.

185.(1) The Minister may, for the purposes of this Act, make regulations to give effect to the purposes and such regulations may prescribe offences and penalties, or amend penalties, prescribe fees and do any lawful at which falls under the objectives and purposes of this Act.

(2) Unless the Parliament provides otherwise, the Minister may, without prejudice to subsection (1) make orders or regulations respecting euthanasia, abortion and the compelling of family members to subjection to medical tests or examination for the purposes of tracing the history or origins of a disease infection or ailment possessed by one of the members of the family.

Penalties where not expressly provided.

186.(1) Any person who fails or refuses to comply with or who contravenes a provision of this Act or regulation made under this Act commits an offence, and where a punishment is not expressly provided, shall be liable on conviction to a fine not exceeding fifty thousand Emalangeni, which fine may be amended by the Minister by notice published in the Gazette, or to imprisonment to a period not exceeding five years.

(2) The court hearing a matter under this Act may in its wisdom disregard technicalities which may result in an acquitted and to the prejudice of the intentions or objectives of this Act, being appropriate public health for all and to all.

Transitional provisions.

187.(1) The Minister may, where necessary and with the approval of the Cabinet or Parliament and by notice published in the Gazette, bring into force or stall, for a specific time, the coming into force of certain Parts, sections, responsibilities and duties of certain persons or bodies.

(2) Any regulations made under the Public Health Act No. 5 of 1969 shall remain in force until revoked or repealed, provided they are not inconsistent with the purposes of this Act and where they are inconsistent they shall be void to the extent of the inconsistency.

Repeal.

188. The Public Health Act, No. 5 of 1969 is repealed.

LEGAL NOTICE NO. 88 OF 1999

THE CIVIL SERVICE ORDER, 1973
(Order No. 16 of 1973)

APPOINTMENT OF ACTING PRINCIPAL SECRETARY
(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:

WILLIAM MLIFE MSIBI

To act as Principal Secretary in the Ministry of Education with effect from 1st June 1999 to 9th July, 1999.

ABNER THEMBELA TEMBE

To act as Principal Secretary in the Ministry of Justice and Constitutional Development with effect from 1st June, 1999 to 30th June, 1999.

CHRISTOPHER THEMBA NKWANYANA

To act as Principal Secretary in the Ministry of Housing and Urban Development with effect from 24th May 1999 to 11th June, 999.

SAMUEL SIBUSISO MKHONTA

To act as Principal Secretary in the Ministry of Education with effect from 24th April 1999 to the 9th May, 1999.

THUS DONE UNDER MY HAND AT **LOZITH'EHLEZI** ON THIS 12TH DAY OF JULY 1999.

MSWATI III
KING OF SWAZILAND