



SWAZILAND GOVERNMENT GAZETTE

VOL. XXXVIII]

MBABANE, Friday, June 9th., 2000

[No. 571

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GENERAL NOTICE NO. 46 OF 2000

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

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under section 3)

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

NOKUTHULA INESS DLAMINI

A resident of Ka-Langa Royal Kraal in the Hhohho Region to assume the Surname **Matola**.

J. D. DLAMINI
Acting Principal Secretary

Mbabane
28th January, 2000

GENERAL NOTICE NO. 47 OF 2000

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

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under section 3)

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

MFAN'FIKILE FORTUNE HLOPHE

A resident of Emchinsweni Royal Kraal in the Shiselweni Region to assume the Surname **Mavuso**.

J. D. DLAMINI
Acting Principal Secretary

Mbabane
28th January, 2000

GENERAL NOTICE NO. 48 OF 2000

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

AUTHORIZATION OF CHANGE OF NAME NOTICE
(Under section 3)

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

SIBONOKWAKHE MAMBA

A resident of Matfutseni Royal Kraal in the Manzini Region to assume the Surname **Dlamini**

J. D. DLAMINI
Acting Principal Secretary

Mbabane
28th January, 2000

460

NOTICE

Notice is hereby given that I, Enock Dinga Mdluli of Shiselweni Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Radebe after the fourth publication of this notice in each of the four consecutive weeks in the Times of Swaziland Newspaper, being the only newspaper circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Shiselweni Region and in the Government Gazette.

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

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

P. O. Box 447
Bhunya
Manzini

B680 4x16-06-2000

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 222/1966 dated the 4th day of October, 1966 made in favour of **UNITRANS (SWAZILAND) LIMITED** in respect of:-

CERTAIN : Erf No. 193, situate on Generaal Street, in the Town of MANZINI (formerly Bremersdorp), SWAZILAND;

MEASURING : 200 (Two Hundred) square roods;

Any person having objection to issue to such copy is hereby requested to lodge in writing with the Registrar of Deeds within three weeks from the date of the last publication of this Notice.

MILLIN & CURRIE
Incorporating
R D FRIEDLANDER & CO.
1st Floor Development House
Swazi Plaza
Mbabane

B716 2x09-06-2000

NOTICE

ESTATE LATE: SOMANDLA DONALD DLAMINI ESTATE NO. EM341/99

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.

JUSTICE AARON DLAMINI
P. O. Box (A363)
Swazi Plaza
Mbabane

B750 09-06-2000

461

NOTICE

Notice is hereby given that we intend applying for a certified copy of Crown Grant No. 53/1964 dated the 26th day of August, 1964 and registered on the 8th day of September, 1964 made in favour of **UNITRANS (SWAZILAND) LIMITED** in respect of:-

CERTAIN : Erf No. 312 situate in Manzini Township Extension No. 2, District of Manzini, Swaziland;

MEASURING : 191 (One Nine One) square roods and 122 (One Two Two) square feet;

Any person having objection to issue to such copy is hereby requested to lodge in writing with the Registrar of Deeds within three weeks from the date of the last publication of this Notice.

MILLIN & CURRIE
Incorporating
R D FRIEDLANDER & CO.
1st Floor Development House
Swazi Plaza
Mbabane

B717 2x09-06-2000

NOTICE

APPLICATION FOR A LOST CROWN GRANT

Notice is hereby given and we intend to apply for a certified copy of Crown Gant No. 129/1971 held by **Samson Thethe Dlamini (Born on the 5th December, 1932)** in respect of:-

CERTAIN : Lot No. 77, situate in Somhlolo Avenue, Sidwashini South Town, Mbabane urban area, District of Hhohho, Swaziland.

MEASURING : 396 (Three Nine Six) Square metre.

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

DATED AT MBABANE THIS THE 23RD DAY OF MAY, 2000

P. R. DUNSEITH
1st Floor Lansdowne House
Post Street
P. O. Box 423
Mbabane

B702 2x9-06-2000

NOTICE

ESTATE LATE: SAMSON MNOLO MSIBI ESTATE NO. EM48/2000

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.

MR DICKS JOSEPH MSIBI
P. O. Box 643
Manzini

B746 02-06-2000

462

NOTICE

Notice is hereby given that we intend applying for a Certified copy of: Crown Gant No. 9/1954 dated the 5th March 1954 and registered on the 24th March 1954 in favour of SCOP DU PONT also known as WILLIAM SCALE DU PONT in respect of:

CERTAIN : Erf No. 14 situate in the Manzini Town, District of Manzini, Swaziland;

MEASURING : 1983 (One Nine Eight Three) square metre;

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 23RD DAY OF MAY 2000

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

B700 2x9-06-2000

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 306/1982 dated the 14th day of December, 1982 in respect of certain Lot No. 139, situate in the Siteki Township, District of LUBOMBO, Swaziland; measuring 506 square metres made in favour of ELPHUS GOEDGEGUN TSABEDZE (Born in March, 1947).

All persons having objections to the issue of the aforesaid copy are hereby requested to lodge same with the Registrar of Deeds for Swaziland at Mbabane within a period of three weeks from the date of the last publication of this Notice.

DATED AT MANZINI ON THIS 23RD DAY OF MAY, 2000.

ZWANE KUBHEKA & ASSOCIATES
Applicant's Attorneys
P. O. Box 1301
Manzini

B703 2x09-06-2000

NOTICE

ESTATE LATE: ELLIOT M. MKHABELA ESTATE NO. EM167/97

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 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.

JABULANI MKHABELA
P. O. Box 19
Matsapha

B747 09-06-2000

NOTICE

Notice is hereby given that we intend applying for a Certified copy of Deed of Transfer No. 95/1964 dated the 2nd July 1964 made in favour of **J.L.C. VERMAAK AND 8 OTHERS** in respect of:-

CERTAIN : One Quarter (1/4) share of and in certain Farm No. 455, District of Hlatikulu (formerly Southern District) Swaziland situate on Crown Land Area No. 166;

MEASURING : 428,4330 (Four Two Eight Comma Four Three Three Zero) Hectares;

Any person having objection to issue to such copy is hereby requested to lodge in writing with the Registrar of Deeds within two (2) weeks of last publication of this Notice.

C. J. LITTLER & CO.,
Applicant's Attorneys
Ground Floor Embassy House
Johnstone Street
Mbabane

B709 2x09-06-2000

NOTICE

Notice is hereby given that we intend applying for a certified copy of: Deed of Transfer No. 380/1986 dated the 15th September 1986 in favour of **HUMPHREY HORSEMAN HENWOOD** (born on the 10th November 1929), **KENNETH CLARENCE HENWOOD** (born on the 22nd February 1933), **ETHNE ETHEL YOUNG** (born Henwood on the 28th December 1937) married out of community of property to Chester Willie Young, **ATHALIA LAURA DIAS** (born Henwood on the 30th March 1940) married out of community of property to Jorge Goncalves Fernandes Dias and **REJOICE RENA STRYDOM** (born Henwood on the 1st February 1945) married out of community of property to Raymond Julius Strydom in respect of:

CERTAIN : Erf No. 21 situate in Third Avenue and Second Street in the Township of Nhlengano, District of Shiselweni, Swaziland;

MEASURING : 2855 (Two Eight Five Five) square metres;

Any person having objection to issue to such copy is hereby requested to lodge in writing with the Registrar of Deeds within two (2) weeks of last publication of this Notice.

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

B710 2x09-06-2000

NOTICE

ESTATE LATE: JOHANNES MADLAZIYA MASEKO ESTATE NO. EM52/99

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.

ELIZABETH MARIA MASEKO
P. O. Box 2534
Manzini

B750 09-06-2000

NOTICE

Notice is hereby given that we intend to apply for a certified copy of Deed of Transfer No. 1/1957 dated 11th January 1957 passed in favour of Senna Teyise in respect of :-

1. CERTAIN : Farm No. 686 situate in the Shiselweni District.
MEASURING : 315,8819 hectares
2. CERTAIN : Portion 1 of Farm No. 593 situate in the Shiselweni District
MEASURING : 128.8924 hectares
3. CERTAIN : Portion 4 of Farm 329 situate in the Shiselweni District
MEASURING : 138.5488 hectares.

All persons having objection to the issue of such copy are hereby required to lodge in writing with the Registrar of Deeds for Swaziland at Mbabane within 3 weeks from the date of last publication of this notice.

DATED AT MBABANE THIS 22ND DAY OF MAY 2000.

P M SHILUBANE & ASSOCIATES
Applicant's Attorneys
Third Floor
Lilunga House
Gilfillan Street
P. O. Box 2788
Mbabane

B714 2x09-06-2000

NOTICE

Notice is hereby given that we intend applying for a certified copy of Crown Grant No. 36/1996 dated the 7th February, 1996 made in favour of **BREMER MAJUBA NXUMALO** (born on the 27th day of November, 1947), I.D. No. 5415 - 02 - 6021454 over:

- CERTAIN : Portion 738 of Farm No. 2 situate in the Mbabane Urban Area in the Hhohho District, Swaziland;
- MEASURING : 5208 (Five Two Zero Eight) square metres;

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

DATED AT MBABANE ON THIS 2ND DAY OF JUNE, 2000.

SIGWANE, MANZINI AND PARTNERS
Attorneys for Applicant
P. O. Box A204
Swazi Plaza
Mbabane

B745 2x16-06-2000

NOTICE

Notice is hereby given that I, Amos Kunene of Hhohho Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Nkambule after the fourth publication of this notice in each of the four consecutive weeks in the Times of Swaziland Newspaper, being the only newspaper circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Hhohho Region and in the Government Gazette.

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

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

P. O. Box 811
Mbabane

B768 4x30-06-2000

NOTICE

Notice is hereby given that I, Hezekia N. Mdluli of Shiselweni Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Masuku after the fourth publication of this notice in each of the four consecutive weeks in the Times of Swaziland Newspaper, being the only newspaper circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Shiselweni Region and in the Government Gazette.

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

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

P. O. Box 126
Nhlangano

B748 4x30-06-2000

NOTICE

ESTATE LATE: MAGWAZA N. SHABANGU ESTATE NO. EH93/99

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 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.

PETROS SHABANGU
P. O. Box 376
Mbabane

B751 09-06-2000

NOTICE

Notice is hereby given that I, Patrick Isiah Mayisela of Hhohho Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Mathunjwa after the fourth publication of this notice in each of the four consecutive weeks in the Times of Swaziland Newspaper, being the only newspaper circulating in the Region where I reside and designated for this purpose by the Regional Secretary for the Hhohho Region and in the Government Gazette.

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

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

P. O. Box 2666
Mbabane

B749 4x30-06-2000

NOTICE

ESTATE OF THE LATE GEORGE DANTSHI KUNENE ESTATE NO. E66/87

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 for inspection at the office of the Master of the High Court of Swaziland at Mbabane and at the office of the Regional Administrator (Mbabane) for a period of twenty-one (21) days from the date of appearance 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.

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

B772 09-06-2000

NOTICE

ESTATE LATE: VUSI NICHOLUS KHUMALO ESTATE NO. ES130/99

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.

NOMSA MNGOMEZULU
P. O. Box 11
Bhunya

B753 09-06-2000

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 1044/99

In the matter between:

SWAZILAND DEVELOPMENT AND SAVINGS BANK

Plaintiff

and

ABNER MADODA DLAMINI

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 Shiselweni outside the Magistrates Court Building, Nhlangano at 11.30 a.m. on Friday the 30th day of JUNE 2000.

CERTAIN : Farm No. 981 situate in the District of Shiselweni, Swaziland (23km from Nhlangano near Mhlosheni)

MEASURING : 227,0938 (two two seven comma zero nine three eight) square metres.

RESERVE PRICE : E400 000.00 (Four Hundred Thousand Emalangeni)

IMPROVEMENTS : Fenced farm with about 10ha under a very good yielding Banana crop under irrigation, has a dam, wattle trees, some buildings and no squatters

The conditions of sale are available for inspection at the offices of The Sheriff of Swaziland at the High Court in Mbabane and at the offices of the Regional Administrator, Mbabane 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 26TH DAY OF MAY 2000.

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

B773 09-06-2000

NOTICE

ESTATE LATE: ELMON MSONGELWA NHLENGETHWA ESTATE NO. ES15/2000

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

WELLINGTON & SIMON NHLENGETHWA
P. O. Box 351
Hlatsi

B754 09-06-2000

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2894/98

In the matter between:

SWAZILAND DEVELOPMENT AND SAVINGS BANK

Plaintiff

and

JOSEPH NKOMONDE

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 Administration Building, Manzini at 2:30 p.m. on Friday the 30th day of JUNE 2000.

CERTAIN : Portion 182 Ngwane Park Township, Manzini District, Swaziland.

MEASURING : 1558 (one five five eight) square metres.

RESERVE PRICE : E45 000.00 (Forty Five Thousand Emalangeni)

IMPROVEMENTS : A vacant plot

The conditions of sale are available for inspection at the offices of The Sheriff of Swaziland at the High Court in Mbabane and at the offices of the Regional Administrator, Mbabane 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 26TH DAY OF MAY 2000.

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

B774 09-06-2000

NOTICE

ESTATE LATE: GORDON BOY BENNETT ESTATE NO. EM171/99

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 after date of publication hereof.

ETHEL BENNETT
P. O. Box 55
Manzini

B755 02-06-2000

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2572/98

In the matter between:

SWAZILAND DEVELOPMENT AND SAVINGS BANK

Plaintiff

and

ZANELE MOKGOKONG

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 Hhohho outside the Regional Administration Offices Building, Hhohho at 11:00 a.m. on Friday the 30TH day of JUNE 2000.

CERTAIN : Portion of 890 (A Portion of Portion 808) of Farm Dalriach No. 188 situate in the District of Hhohho.

MEASURING : 2080 (two zero eight zero) square metres.

RESERVE PRICE : E70 000.00 (Seventy Thousand Emalangen)

IMPROVEMENTS : A vacant plot

The conditions of sale are available for inspection at the offices of The Sheriff of Swaziland at the High Court in Mbabane and at the offices of the Regional Administrator, Mbabane 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 26TH DAY OF MAY 2000.

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

B775 09-06-2000

NOTICE

ESTATE LATE: BOY MCINISELI MHLABANE ESTATE NO. EP15/2000

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.

BHEKIMUSA MHLABANE
P. O. Box 3
Pigg's Peak

B757 09-06-2000

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2189/98

In the matter between:

SWAZILAND DEVELOPMENT AND SAVINGS BANK

Plaintiff

and

ELIZABETH HLATSHWAYO

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 2:30 p.m. on Friday the **30TH** day of **JUNE 2000**.

CERTAIN : Portion 26 of Farm Gaberones No. 267 Manzini District, Swaziland.
MEASURING : 672 (six seven two) square metres.
RESERVE PRICE : E60 000.00 (Thirty Thousand Emalangeni)
HELD : By Defendant
IMPROVEMENTS : A residential house

The conditions of sale are available for inspection at the offices of The Sheriff of Swaziland at the High Court in Mbabane and at the offices of the Regional Administrator, Mbabane 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 26TH DAY OF MAY 2000.

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

B776 09-06-2000

NOTICE

ESTATE LATE: VINCENT RICHARD DLAMINI ESTATE NO. EP72/99

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.

JEKE MAVELEMINI DLAMINI
P. O. Box 122
Bhunya

B758 09-06-2000

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 2186/98

In the matter between:

SWAZILAND DEVELOPMENT AND 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 Administration Offices Building, Manzini at 2:30 p.m. on Friday the 30TH day of JUNE 2000.

CERTAIN : Lot No. 616 situate in Manzini Extension No. 6 Manzini District, Swaziland.

MEASURING : 1692 (one six nine two) square metres.

RESERVE PRICE : E375 000.00 (Three Hundred and Seventy Five 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 High Court in Mbabane and at the offices of the Regional Administrator, Mbabane 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 26TH DAY OF MAY 2000.

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

B777 09-06-2000

NOTICE

ESTATE LATE: ANDRIAS MGIYELWA BHEMBE ESTATE NO. EH53/2000

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.

LOMTHANTAZO BHEMBE
P. O. Box 1
Lobamba

B759 09-06-2000

NOTICE

ESTATE LATE: PAUL M. SIMELANE ESTATE NO. ES158/99

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 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.

SIMANGELE SIMELANE
P. O. Box 560
Nhlangano

B752 09-06-2000

NOTICE

ESTATE LATE: SIMON MPANDLANA MOTSA ESTATE NO. ES18/98

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 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.

MARIA MOTSA
P. O. Box 405
Nhlangano

B756 09-06-2000

NOTICE

ESTATE LATE: SIDAKWANE S. SIFUNDZA ESTATE NO. EP28/2000

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 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.

MMEMEZI SIFUNDZA
C/o Mhlangatane
Hhohho

B760 09-06-2000

NOTICE

ESTATE LATE: ELIJAH NDODELI NXUMALO ESTATE NO. ES208/99

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 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 NXUMALO
P. O. Box 18
Magubheleni

B761 09-06-2000

NOTICE

ESTATE LATE: PHATHIZIZWE OBERT DLAMINI ESTATE NO. EH181/99

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 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.

ANGEL DLAMINI
P. O. Box 34
Lobamba

B762 09-06-2000

NOTICE

ESTATE LATE: ROBERT MCINISELI MKHWANAZI ESTATE NO. EM251/99

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 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.

DUMSILE MKHWANAZI
P. O. Box 20
Mankayane

B769 09-06-2000

NOTICE

VOLUNTARY LIQUIDATION

(In terms of Section 159(1) of the Companies Act No. 7/1912)

Woodthorpe (Proprietary) Limited hereby given notice in terms of the aforesaid provision that at an extra ordinary meeting of members held on 15 May 2000, at Ground Floor, Embassy House, Mbabane, the following extraordinary resolution was taken:

- (1) That the company be wound up voluntarily.
- (2) That Paul Mulindwa-Lubega be appointed as the Liquidator.

GOTTFRIED SEELING

Chairman

B766 09-06-2000

NOTICE

ESTATE LATE: JUDITH NCINELENI KUNENE NEE KHUMALO ESTATE NO. EM191/2000

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.

RICHARD KUNENE
P. O. Box 171
Mankayane

B767 09-06-2000

NOTICE

ESTATE LATE: ELIAS MNGOMEZULU ESTATE NO. EM195/98

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.

THABSILE MNGOMEZULU
P. O. Box 603
Manzini

B770 09-06-2000

NOTICE

ESTATE LATE: ELLIOT NKE NKONYANE ESTATE NO. ES63/2000

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.

ALLVINAH NKONYANE
P. O. Box 5247
Mbabane

B771 09-06-2000

SUPPLEMENT TO

THE

SWAZILAND GOVERNMENT

GAZETTE

VOL. XXXVIII]

MBABANE, Friday, June 9th., 2000

[No. 571

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PUBLISHED BY AUTHORITY

THE TRANSFER OF CONVICTED OFFENDERS BILL, 2000

(Bill No. 3 of 2000)

(To be presented by the Minister for Justice)

MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to provide for the -

- (a) implementation of the Commonwealth Scheme for the transfer of convicted offenders;
- (b) transfer of a person convicted in Swaziland to serve his term of imprisonment in his home country and likewise to provide for a Swazi citizen or resident convicted of an offence outside Swaziland to serve his sentence in Swaziland; and
- (c) other matters incidental thereto.

P. M. DLAMINI
Attorney - General

A BILL Entitled

An Act to provide for the transfer of convicted offenders to and from Swaziland and for matter incidental thereto.

ENACTED by the King and Parliament of Swaziland

PART 1: PRELIMINARY

Short title and commencement

1. This Act may be cited as the Transfer of Convicted Offenders Act, 2000, and shall come into force on the day of its publication in the Gazette.

Interpretation

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

“administering country” means the country to which the convicted offender may be or has been transferred in order to serve his sentence;

“convicted offender” means a person upon whom a sentence has been imposed by a court;

“court” means a court of competent jurisdiction whether in Swaziland or outside Swaziland;

“Minister” means the Minister for Justice;

“sentence” means any punishment or measure involving deprivation of liberty ordered by a court for a determinate or indeterminate period of time in exercise of its criminal jurisdiction;

“sentencing country” means the country in which the sentence was imposed on the convicted offender who may be or has been transferred.

PART II: TRANSFER OF CONVICTED OFFENDERS FROM SWAZILAND

Transfer of convicted offenders

3. (1) Subject to this Act, a convicted offender sentenced to a term of imprisonment by a court in Swaziland may be transferred to another country referred to in this Part as the “administering country” in order that such person may serve in that country the remainder of the sentence.

(2) A convicted offender may be transferred from Swaziland either -

- (a) at the request of the Minister;
- (b) at the request of the administering country; or
- (c) upon application by the convicted offender to the Minister or to the appropriate authority in the administering country.

Request for transfer of convicted offenders

4. All requests or applications for the transfer of convicted offenders under section 3 shall be made in writing to the Minister.

Conditions for transfer of convicted offenders from Swaziland

5. (1) A convicted offender may be transferred from Swaziland to an administering country on the following conditions -

- (a) if that offender is a national of the administering country or has close ties with the administering country of a kind that may be recognized by that country for the purposes of this Act;
- (b) if the judgement is final;
- (c) if at the time of the receipt of the request for transfer, the convicted offender still has at least six months of the sentence to serve or if the sentence is indeterminate;
- (d) if the transfer has been consented to by the convicted offender or by a person entitled by law to act on behalf of the convicted offender because of the age, physical or mental condition of the convicted offender; and
- (e) if the Minister and the administering country have agreed to the transfer of the convicted offender from Swaziland.

(2) Where a convicted offender consents to his transfer from Swaziland under subsection (1)(d), such consent shall be given by the convicted offender voluntarily and in writing.

Minister to furnish information

6. For the purpose of enabling a decision to be made on a request or an application for the transfer of a convicted offender from Swaziland under this Part, the Minister shall furnish the administering country with the following documents and information -

- (a) the name, date and place of birth of the convicted offender;
- (b) his address, if any, in the administering country;
- (c) a certified copy of the judgement and a copy or account of the law on which it is based;
- (d) a statement of the facts upon which the conviction and sentence were based;
- (e) the nature, duration and date of commencement of the sentence;
- (f) whenever appropriate, any medical or social reports on the convicted offender, information about his treatment and any recommendation for his further treatment in the administering country;
- (g) any other information which the administering country may specify as required in all cases to enable it to consider the possibility of transfer and to enable it to inform the convicted offender and the Minister of the full consequences of the transfer for the prisoner under this law.

Discharge of sentence in Swaziland

7. The enforcement by the administering country of the sentence imposed in Swaziland on the convicted offender shall, to the extent that it has been enforced in the administering country, have the effect of discharging the sentence in Swaziland.

Effect of transfer for the administering country

8. (1) When the convicted offender is transferred from Swaziland, the administering country shall continue the enforcement of the sentence immediately, unless the law of the administering country requires that such enforcement should be effected by a court or an administrative order.

(2) Subject to section 9, the enforcement in the administering country of the sentence imposed on the convicted offender shall be governed by the law of the administering country.

(3) If according to its law, the administering country cannot enforce any measures imposed by a court in Swaziland on the convicted offender who because of his mental condition has been held not to be criminally responsible for the commission of the offence for which he has been convicted and the administering country is prepared to receive such a person for further treatment, it may notify the Minister of the procedure it may follow to deal with the case of such person.

(4) The administering country shall be bound by the legal nature and duration of the sentence as determined by the court in Swaziland.

(5) If the sentence imposed by the court in Swaziland is by its nature or duration incompatible with the law of the administering country or its law so requires, that country may by court or administrative order impose a sentence of a nature and duration which shall as far as possible correspond with that imposed by the court in Swaziland.

Provided that the nature and duration of such sentence shall not be of greater severity than that imposed by the court in Swaziland.

Pardon, amnesty communication, etc

9. Unless the Minister and the administering country otherwise agree, the power to commute or remit any sentence of or the grant of pardon either free or conditional to a convicted offender sentenced in and transferred from Swaziland to the administering country shall be exercised by His Majesty the King under Part II of the Criminal Procedure and Evidence Act, 1938.

Termination of enforcement of sentence

10. When as a result of any decision or measure the sentence imposed on the convicted offender by a court in Swaziland ceases to be enforceable, the Minister shall as soon as such decision or measure has been taken, inform the administering country and accordingly the enforcement of the sentence in that country shall terminate.

Information on enforcement by administering country

11. (1) The administering Country shall notify the Minister -

- (a) when the enforcement of the sentence is completed; or
- (b) when the convicted offender escapes from custody before he has completed serving his sentence.

(2) Without prejudice to subsection (1), the Minister may at any time request a special report from the administering Country concerning the enforcement of the sentence imposed on the convicted offender transferred to that country.

PART III: TRANSFER OF CONVICTED OFFENDERS TO SWAZILAND*Transfer of convicted offender to Swaziland*

12. (1) Subject to this Act, a convicted offender who is a Swazi citizen or is permanently resident in Swaziland and who is sentenced to a term of imprisonment by a court in a country outside Swaziland referred to in this Part as the "sentencing country" may be transferred to Swaziland to serve the remainder of the sentence.

(2) The convicted offender referred to in subsection (1) may be transferred to Swaziland either

- (a) at the request of the Minister; or
- (b) at the request of the sentencing country; or

(c) upon application by the convicted offender to the Minister or to the appropriate authority in the sentencing country.

(3) A request under subsection (2)(a) shall be made in writing by the Minister to the Appropriate authority in the sentencing country.

(4) An application under subsection (2)(c) shall be made in writing by the convicted offender to the Minister.

Conditions for transfer of convicted offenders to Swaziland

13. (1) A convicted offender may be transferred to Swaziland from a sentencing country on the following conditions -

- (a) if that offender is a citizen of Swaziland or is permanently resident in Swaziland;
- (b) if the judgement is final; and
- (c) if at the time of the request for transfer the convicted offender still has at least six months of the sentence to serve or if the sentence is indeterminate; and

(d) if the transfer has been consented to by the convicted offender or by a person entitled by law to act on behalf of the convicted offender because of the age, physical or mental condition of the convicted offender; and

(e) if the Minister and the sentencing country have agreed to the transfer of the convicted offender.

(2) Subject to the law of the sentencing country, where a convicted offender consents to his transfer to Swaziland under subsection (1)(d), such consent shall be given by him voluntarily and in writing.

Sentencing country to furnish information

14. For the purposes of enabling the Minister to make a decision on a request by a sentencing country for the transfer of convicted offender or on an application by the convicted offender for his transfer to Swaziland, the appropriate authority of the sentencing country shall furnish the Minister with the following information and documents -

- (a) the name, date and place of birth of the convicted offender;
- (b) his address, if any, in Swaziland;
- (c) a certified copy of the judgement and a copy or account of the law on which it is based;
- (d) a statement of the facts upon which the conviction and sentence were based;
- (e) the nature, duration and date of commencement of the sentence;
- (f) whenever appropriate, any medical or social report on the convicted offender, information about his treatment in the sentencing country and any recommendation for his further treatment in Swaziland; and
- (g) any other information which the Minister may specify as required in all cases to enable him to consider the possibility of the transfer and to inform the convicted offender and the sentencing country of the full consequences of the transfer for the convicted offender under the law of Swaziland.

Discharge of sentence in sentencing country

15. The enforcement in Swaziland of the sentence imposed on the convicted offender by the sentencing country shall, to the extent that the sentence has been enforced in Swaziland, have the effect of discharging the sentence in the sentencing country.

Effect of transfer for Swaziland

16. (1) When the convicted offender is transferred to Swaziland, the Government shall immediately continue the enforcement of the sentence.

(2) Subject to section 17, the enforcement of the sentence in Swaziland shall be governed by the provisions of the Criminal Procedure and Evidence Act, 1938.

(3) If any measures imposed by a court in the sentencing country on the convicted offender cannot be enforced in Swaziland on the ground that because of the mental condition of the offender he has been held not to be criminally responsible for the commission of the offence and the Government is prepared to receive such person for further treatment, the Minister may notify the appropriate authority in the sentencing country of the procedure he may follow to deal with the case of such person.

(4) The Government shall be bound by the legal nature and duration of the sentences as determined by the court in the sentencing country.

(5) If the sentence imposed by the court in the sentencing country is by its nature and duration incompatible with the law of Swaziland, the Director of Public Prosecutions may apply to the High Court for the Court to impose a sentence of a nature and duration which shall as far as possible correspond with that imposed by the court in the sentencing country:

Provided that the nature and duration of such sentence shall not be of greater severity than that imposed by the court in the sentencing country.

Pardon, communication, etc

17. Unless the Minister and the sentencing country otherwise agree, the power to commute or remit any sentence imposed on the convicted offender by the court in the sentencing country or the grant of pardon either free or conditional to convicted offenders shall be exercised by competent authority of, and in accordance with the law of, the sentencing country.

Termination of enforcement of sentence in Swaziland

18. If as a result of any decision or measure the sentence imposed on a convicted offender transferred to Swaziland ceases to be enforceable in the sentencing country the appropriate authority in that country, shall as soon as such decision or measure has been taken, inform the Minister of the decision or measure and accordingly the enforcement of the sentence in Swaziland shall terminate.

Information on enforcement of sentence in Swaziland

19. (1) The Minister shall notify the appropriate authority in the sentencing country -

- (a) when the enforcement of the sentence is completed; or
- (b) when the convicted offender escapes from custody before he has completed serving his sentence.

(2) Without prejudice to subsection (1), the appropriate authority of the sentencing country may at any time request a special report from the Minister concerning the enforcement of the sentence imposed on the convicted offender transferred from that country.

PART IV: MISCELLANEOUS

Supporting documents need to be certified

20. Except as provided in section 6(c), any other document required in support of a request or an application for the transfer of the convicted offender under this Act need not be certified.

Transit

21. If the transfer of the convicted offender under this Act involves transit through the territory of any other country or countries, the Minister or the sentencing country, as the case may be, shall give each transit country not less than 7 days' written notice of the intended transfer of the convicted offender and request the appropriate authority in each transit through its territory of the convicted offender.

Costs

22. The cost of the transfer of a convicted offender under this Act shall be defrayed by the Government and the administering country or the sentencing country, as the case may be, in such proportion as the Minister and that country may agree either generally or in regard to any particular transfer.

Regulations

23. The Minister may, by Notice published in the Gazette, make such regulations as may be necessary for the carrying out or giving effect to the provisions of this Act.

Transitional provision

24. The provisions of this Act shall be applicable to the enforcement of any sentence imposed before the coming into force of this Act.

CRIMINAL MATTERS (MUTUAL ASSISTANCE) BILL, 2000

(Bill No. 4 of 2000)

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

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to facilitate the provision and obtaining by Swaziland of International assistance in criminal matters, including assistance in:

- (a) identifying and locating persons;
- (b) serving document;
- (c) examining witnesses;
- (d) search and seizure of persons suspected of criminal offences;
- (e) obtaining evidence;
- (f) facilitating the personal appearance of witnesses;
- (g) effecting a temporary transfer of persons in custody to appear as witnesses;
- (h) obtaining production of judicial or official records;
- (i) tracing, seizing and confiscating the proceeds of serious offences.

P. M. DLAMINI
Attorney - General

A BILL
Entitled

An Act to provide for international assistance in criminal matters and for other matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland

ARRANGEMENTS OF SECTIONS

PART 1: PRELIMINARY

Short title and commencement

1. This Act may be cited as the Criminal Matters (Mutual Assistance) Act, 2000 and shall come into force on such date as the Minister may by Notice in the Gazette, appoint.

Interpretation

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

“appropriate authority” means in relation to a designated country, the person or authority appointed for the purpose of transmitting and receiving requests for assistance under this Act;

“authorised officer” means an officer authorised by the Minister for the purposes of transmitting and receiving requests for assistance under this Act;

“Court” means a court of competent jurisdiction in Swaziland or in a designated country;

“criminal proceedings” means proceedings which have been or could be instituted in Swaziland or as the case may be in a designated country in respect of an offence committed or suspected on reasonable grounds to have been committed in Swaziland or as the case may be in a designated country;

“designated country” means a foreign country designated under section 3;

“forfeiture order” means an order made by a Court confiscating any property derived or obtained, whether or indirectly from, or used in or in connection with, the commission of a serious offence;

“Minister” means the Minister for Justice;

“offence” means an offence against the law of Swaziland or against the law of a designated country by which a request is made for assistance under this Act;

“pecuniary penalty order” means an order made by a court imposing a pecuniary penalty determined by reference to the value of any property derived or obtained, whether directly or indirectly from, or used in or in connection with, the commission of a serious offence;

“proceeds” means proceeds of serious offence as defined in section 2 of the Serious offences (Confiscation of Proceeds) Act 2000;

“property” means real or personal property of every description wherever situated, whether tangible or intangible and it also means any interest in any such real or personal property;

“restraining order” means an order made by a court restraining dealings with any property in respect of which there is reasonable cause to believe that it has been derived or obtained, whether directly from, or used in, or in connection with, the commission of a serious offence.

“serious offence” means an offence specified in the Serious Offences (Confiscation of Proceeds) Act, 2000 or an offence of a similar kind against the law of a designated country.

Application of Act to designated Countries

3. This Act shall apply to such foreign country as the Minister may designate from time to time by Notice in the Gazette and referred to in this Act as the “designated country”.

Act not to preclude other forms of assistance

4. Nothing in this Act shall prevent the provision or obtaining of international assistance in criminal matters otherwise than in accordance with this Act.

PART II: REQUESTS BY SWAZILAND FOR ASSISTANCE

Form of requests for assistance

5. All requests for assistance under this part shall be made in writing by the Minister or an authorised officer and transmitted to the appropriate authority in the designated country.

Assistance in obtaining evidence

6. Where there are reasonable grounds to believe that evidence for the purposes of any criminal proceedings may be obtained if in a designated country -

- (a) evidence is taken from any person;
- (b) judicial, official or other records or documents are produced;
- (c) samples of any matter or things are taken or examined; or
- (d) any site or thing is viewed or photographed

a request may be transmitted to the appropriate authority in the designated country requesting that the evidence be so obtained for the purpose of such proceedings.

Assistance in identifying and locating persons

7. Where there are reasonable grounds to believe that a person who -

- (a) is or might be concerned in or affected by; or
- (b) could give evidence for the purpose of

any criminal proceedings is in a designated country, a request may be transmitted to the appropriate authority in the designated country requesting that assistance be given in locating that person or if his identity is unknown, in identifying and locating him.

Assistance in obtaining articles or things by search and seizure

8. Where there are reasonable grounds to believe that an article or thing is in a designated country and would, if produce, constitute evidence for the purpose of any criminal proceedings, a request may be transmitted to the appropriate authority in the designated country requesting that the article or thing be obtained by search and seizure in accordance with the law of that country for the purposes of such proceedings.

Assistance in arranging attendance of witnesses

9. Where there are reasonable grounds to believe that a person in a designated country could give evidence for the purpose of any criminal proceedings, a request may be transmitted to the appropriate authority in the designated country requesting that assistance be given in arranging the attendance of that person in Swaziland to give evidence.

Assistance in securing transfer of prisoners

10. (1) Where there are reasonable grounds to believe that a person in a designated country could give evidence for the purpose of any criminal proceedings, a request may be transmitted to the appropriate authority in the designated country requesting that the prisoner be transferred to Swaziland to give evidence for the purposes of such proceedings.

(2) The appropriate authority in the designated country shall notify the Ministry of any conditions under which the prisoner may be transferred, and the Minister shall, except where he is unable to do so or that the appropriate authority waives the observance of such conditions, ensure that those conditions are observed.

(3) Subject to any conditions as may be prescribed by the designated country in any particular case, the provisions of the Correctional Services Act, 1964 with respect -

- (a) to the conditions of imprisonment;
- (b) to the treatment; and
- (c) to the transfer from prison to prison;

of a prisoner shall apply in so far as they are capable of application in relation to the prisoner who is in Swaziland pursuant to a request made under subsection (1)

(4) Nothing in this section shall be construed as conferring any rights on the prisoner.

(5) In this section "prisoner" in relation to a designated country means a person who is being held in custody or sentenced for or under a sentence of imprisonment for an offence against the law of that country.

Restriction on use of evidence

11. No evidence obtained under section 6 or given by any person or prisoner under section 9 or 10, or any article or thing seized pursuant to a request under section 8 shall be admitted or otherwise used for the purpose of any proceedings other than the criminal proceedings for which the evidence, article or thing was obtained, seized or given without the consent in writing of the appropriate authority in the designated country to which the request was made.

Immunities and privileges

12. (1) Subject to subsection (2), a person who is in Swaziland pursuant to a request under section 9 or 10 -

- (a) is not liable to be detained, prosecuted or punished for any offence that is alleged to have been committed or that was committed before the person's departure from the designated country to which the request was made;
- (b) shall not be compelled to give evidence in relation to any -
 - (i) to any proceedings other than the proceedings in the criminal matter to which the request relates; or
 - (ii) matter, if he would not be compelled to do so in Swaziland or in the designated country to which the request was made.

(2) The provisions of subsection (1) shall not apply in relation to a person who -

- (a) leaves Swaziland and returns otherwise than pursuant to the same or another request; or
- (b) has had an opportunity of leaving Swaziland but has in Swaziland after the expiration of period of 15 days from the date when he was notified by the minister that his presence in Swaziland was no longer required for the purpose of the request.

Assistance in serving documents

13. Where for the purposes of any criminal proceedings, it is necessary or desirable to serve a document on a person or authority in a designated country, a request may be transmitted to the appropriate authority in the designated country requesting that the service be so effected.

Assistance in tracing proceeds of serious offences

14. Where -

- (a) in Swaziland a person has been convicted of a serious offence or has been or is about to be charged with a serious offence; and
- (b) there are reasonable grounds to believe that proceeds were gained from the commission of the offence by that person and any those proceeds are in a designated country

a request may be transmitted to the appropriate authority in that country requesting that assistance be given in that country in identifying, locating or assessing the value of such proceeds.

Assistance in relation to forfeiture and pecuniary penalty orders

15. Where under the Serious Offences (Confiscation of Proceeds) Act 2000 -

- (a) a forfeiture order or a pecuniary penalty order or a restraining order has been made against any person in respect of a serious offence; and
- (b) there are reasonable grounds to believe that there is in a designated country -
 - (i) property available for the satisfaction of the pecuniary penalty order; or
 - (ii) property to which the forfeiture order relates

a request may be transmitted to the appropriate authority in the designated country requesting that the order be enforced in designated country in accordance with the terms of the request and subject to the law of that country.

Assistance in obtaining restraining orders

16. Where -

- (a) in Swaziland a person has been or is about to be charged with a serious offence; and
- (b) there are reasonable grounds to believe that proceeds were gained from the commission of the offence by the person and any of those proceeds are in a designated country.

a request may be transmitted to the appropriate authority in the designated country requested that an order similar in nature to a restraining order under the Serious Offences (Confiscation of Proceeds) Act, be made in that country against that person in respect of the offence.

Request for assistance generally

17. (1) All requests by a designated country for assistance under this Part shall be transmitted to the Minister or an authorised officer.

(2) A request shall normally be made in writing except in the case of emergency when it shall be made orally and confirmed in writing forthwith.

(3) A request shall -

- (a) specify the nature of the assistance requested;
- (b) contain information appropriate to the assistance sought as specified in this part;
- (c) state any time-limit within which compliance with the request is desired and reasons therefore;
- (d) contain the following information -
 - (i) the identity of the agency or authority initiating the request;
 - (ii) the identity of the accused person; and
 - (iii) whether or not criminal proceedings have been instituted;
- (e) where criminal proceedings have been instituted, contain the following information -
 - (i) the court exercising jurisdiction in the proceedings;
 - (ii) the identity of the accused person;
 - (iii) the offence of which that person stands accused, and a summary of the facts;
 - (iv) the stage reached in the proceedings;
 - (v) any date fixed for further stages in the proceedings;
- (f) where criminal proceedings have not been instituted, state the offence which the designated country has reasonable grounds to believe have been committed, with a summary of the known facts; and

- (g) any other information that may assist in giving effect to the request.

Refusal of request for assistance

18. (1) The Minister may refuse a request by a designated country for assistance under this Part if in the opinion of the Minister the criminal matter concerns -

- (a) conduct which would not constitute an offence under the law of Swaziland;
- (b) an offence or proceedings of a political character; or
- (c) conduct in relation to which the person accused or suspected of having committed an offence has been acquitted or convicted by a court in the designated country.

(2) Without prejudice to subsection (1), the Minister may refuse to comply in whole or in part with a request under this Part -

- (a) if it appears to the Minister that granting of the request would be contrary to the laws of Swaziland or would prejudice the security, international relations or other essential public interest of Swaziland;
- (b) if the Minister has reasonable grounds to believe that granting the request would facilitate the prosecution or punishment of a person on account of that person's race, religion, nationality or political opinions or would cause prejudice for any of these reasons to any person affected by the request;
- (c) if the Minister is satisfied that the steps required to be taken in order to comply with the request cannot under the law of Swaziland be taken in respect of the criminal matter to which the request relates if it has arisen in Swaziland.

(3) For the purposes of sub-section (1), an offence shall be of a political character if it is an offence within the scope of any international convention to which both Swaziland and the designated country are parties and which imposes on the parties thereto an obligation either to extradite or prosecute the person accused of the commission of that offence

Assistance in locating or identifying persons in Swaziland

19. (1) A request may be transmitted by a designated country for assistance in identifying or locating any person believed to be in Swaziland who could give evidence for the purposes of, or who is or might be concerned in, or affected by, any criminal proceedings in the designated country.

(2) Any such request shall -

- (a) state the purpose for which the information about that person is requested; and
- (b) contain such information as is available to the designated country as to the whereabouts of that person and such other information as may facilitate the identification of that person in Swaziland.

Assistance in examination of witnesses in Swaziland

20. (1) A request may be transmitted by a designated country for assistance in the examination of witnesses in Swaziland for the purposes of any criminal proceedings in the designated country.

(2) Any such request shall specify as appropriate and so far as the circumstances of the case permit -

- (a) the names and addresses or official designations of the witnesses to be examined;
- (b) the questions to be put to the witnesses or the subject matter about which they are to be examined;
- (c) whether the witnesses should be examined orally or in writing;
- (d) whether the witnesses should be examined on oath or solemn affirmation;
- (e) any provisions of the laws of the designated country as to the manner of taking evidence relevant to its admissibility in that country.

(3) Subject to the provisions of the Criminal Procedure and Evidence Act, 1938, the accused person or his legal representative may attend the examination of witnesses and may examine such witnesses.

Assistance in arranging personal attendance of witnesses in designated country

21. (1) A request may be transmitted by a designated country for assistance in facilitating the personal attendance of witnesses before a Court in the designated country.

(2) Any such request shall specify -

- (a) the subject matter upon which the witnesses is to be examined;
- (b) the reason for which the person appearance of the witness is required; and
- (c) details of the travelling, subsistence and other expenses payable by the designated country in respect of the personal appearance of the witness.

(3) The Minister shall refuse to comply with a request made under sub-section (1) if the person concerned does not consent to the transfer.

(4) Where a person in custody is being transferred pursuant to a request under subsection (1), the Minister shall notify the designated country of the date when that person shall be released from custody and the date when he should be returned to Swaziland.

(5) The competent authority in the designated country shall keep the person so transferred in custody for as long as his presence as a witness is required and shall return him to Swaziland when his presence is no longer required.

(6) The period during which the person so transferred is kept in custody in the designated country shall be deemed for all purposes to be the period served in custody in Swaziland.

Assistance in obtaining evidence by other means

22. When a request for assistance in obtaining evidence in Swaziland by any of the means stated in section 6 for the purposes of any criminal proceedings in a designated country, the request shall specify as appropriate and as far as the circumstances of the case may permit -

- (a) the documents, records or property to be inspected, produced, photographed, copied or transmitted;

- (b) the samples of any property to be taken, examined or transmitted; or
- (c) the site to be viewed or photographed.

Assistance in production of judicial and official records

23. (1) Where compliance with a request under this Part involves the transmission to the designated country of any document, record or property, the Minister may -

- (a) postpone the transmission of such document, record or property if it is required in connection with proceedings in a court or commission of inquiry in Swaziland in which case certified copies of the document or record may be provided pending the transmission of the original.
- (b) refuse to effect the transmission of such document, record or property unless the designated country agrees to protect the interests of third parties in the document, record or property.

(2) A document, record or property transmitted to a designated country pursuant to a request under subsection (1) shall be returned to the Minister when it is no longer required in connection with the criminal matter in respect of which the request was made, unless the Minister has indicated that he does not require the return of such document, record of property.

Assistance for service of document in Swaziland

24. (1) A request for assistance in the service of documents in Swaziland for the purposes of any criminal proceedings in a designated country shall be accompanied by the documents to be served.

(2) The Minister shall use his best endeavours to have the document served in accordance with the request unless such service is contrary to any other law for the time being force.

(3) If the document is served, the Minister shall transmit to the appropriate authority in the designated country a certificate of service of the document or if it has not been served, the reasons which have prevented the service of the document.

Assistance in tracing the proceeds of serious offences

25. (1) The appropriate authority in a designated country may request for assistance in identifying, locating and assessing the value of any property believed to have been derived or obtained either directly or indirectly from, or to have been used in, or in connection with the commission of a serious offence and believed to be within Swaziland.

(2) Any such request shall contain information concerning the nature and location of the property and any person in whose possession or control the property is believed to be held in Swaziland.

Seizing and confiscation of proceeds of serious offence

26. (1) Where -

- (a) the appropriate authority in a designated country requests the Minister to make arrangements for the enforcement of:
 - (i) a forfeiture order made in respect of a serious offence against property that is believed to be located in Swaziland; or

- (ii) a pecuniary penalty order made in respect of a serious offence where some or all of the property available to satisfy the order is believed to be located in Swaziland; and
- (b) the Minister is satisfied that:
 - (i) the person has been convicted of the offence; and
 - (ii) conviction and the order are not subject to further appeal in the designated country,

the Minister may authorise the Director of Public Prosecutions in writing to apply for the registration of the order in the High Court.

(2) Where the appropriate authority in a designated country requests the Minister to make arrangements for the enforcement of a restraining order made in that country in respect of a serious offence against property that is believed to be located within Swaziland, the Minister may authorise the Director of Public Prosecutions in writing to apply for the registration of the order in the High Court.

(3) Where the Director of Public Prosecutions has applied for registration in the High Court or a forfeiture order or a pecuniary penalty order under subsection (1) or a restraining order under subsection (2), the High Court shall register the order accordingly.

Effect of registration of forfeiture order, pecuniary penalty order or restraining order

27. A forfeiture order, a pecuniary penalty order or a restraining order registered under section 28 shall have effect and may be enforced as if it were a forfeiture order, a pecuniary penalty order or a restraining order made by the High Court under the Serious Offences (Confiscation of Proceeds) Act 2000.

Cancellation of forfeiture order, pecuniary penalty order or restraining order

28. (1) The Minister may authorise the Director of Public Prosecutions in writing to apply to the High Court for the cancellation of an order or amendment thereto registered under section 28 or 29 if the Minister is satisfied that -

- (a) the order of amendment thereto has ceased to have effect in the designated country in which it was made;
- (b) the cancellation of the order or amendment is necessary having regard to the arrangements entered into between Swaziland and the designated country in relation to the enforcement of orders of that kind.

(2) Where the Director of Public Prosecutions has applied for cancellation of the order or amendment thereto under subsection (1) the High Court shall cancel the order or amendment and accordingly such order or amendment shall cease to have effect.

PART IV: MISCELLANEOUS

Disposal of release to property

29. The provisions of the Serious Offences (Confiscation of Proceeds) Act, 2000 shall mutatis mutandis apply to the disposal or release of any property forfeited or obtained as a result of the enforcement of a pecuniary order made pursuant under this Act.

Confidentiality

30. Any request as well any information or material furnished in compliance with any such request under this Act shall be kept confidential and shall not be disclosed to any person for any purpose other than that for which the request was made.

Authentication of documents

31. Any document or other material transmitted for the purpose of or in response to, a request under this Act shall be deemed to be duly authenticated if it -

- (a) purports to be signed or certified by a Judge, Magistrate or proper officer of the designated country; or
- (b) purports to be authenticated by the oath of witness or any officer of the Government of the designated country or of a Minister of State, or of a Department or Officer of the Government of the designated country.

Limitation of use of information

32. Unless with the consent of the Minister, no information obtained in response to a request for assistance under this Act shall be used in connection with any matter other than the criminal matter in respect of which the request was made.

Regulations

33. The Minister may make such Regulations as are necessary for carrying out or giving effect to the provisions of this Act.

Rules of Court

34. Notwithstanding section 35, the Chief Justice may by Legal Notice published in the Gazette, make rules of Court regulating the procedure for the registration of forfeiture, restraining or pecuniary penalty orders issued in a designated Country.

Act not applicable to extradition

35. Nothing in this Act shall be construed as authorising the extradition or the arrest or detention of a person with a view to extraditing that person.

Application of existing legislation

36. Except in so far as provisions are expressly made in this Act, to the contrary, the Provisions of the Criminal Procedure and Evidence Act, 1938 shall apply to give effect to the provisions of this Act.

SERIOUS OFFENCES (CONFISCATION OF PROCEEDS) BILL, 2000

(Bill No. 5 of 2000)

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

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the confiscation of property acquired directly or indirectly by any person from the commission of any serious offence.

P. M. DLAMINI
Attorney - General

A BILL
Entitled

An Act to provide for the confiscation of proceeds of serious offence and to provide for matters connected therewith.

ENACTED by the King and the Parliament of Swaziland.

ARRANGEMENT OF SECTIONS

Short title and commencement

1. This Act may be cited as the Serious Offences (Confiscation of Proceeds) Act, 2000 and shall come into force on such date as the Minister may by Notice in the Gazette, appoint

Interpretation

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

“Banker’s books” means any ledger, ledger card, statement of account, day book, cash book, account book or other book or document used in the ordinary business of banking and it also means any cheque, voucher, record card, report, letter or other document whatsoever or a copy of any thing referred to in the foregoing which is used in the ordinary business of banking;

“Court” means the High Court or a magistrate’s court, as the case may be;

“document” includes any register, book, record, tape recording, any form of computer input or output and any other material (whether produced mechanically, electrically or manually or by any other means whatsoever) and also a banker’s books;

“Minister” means the Minister for Justice;

“premises” includes vessel, aircraft, vehicle and any place whether built upon or not;

“police officer” means a member of the Royal Swaziland Police Force;

“property” means real or personal property of every description wherever situated, whether tangible or intangible and it also means any interest in any such real or personal property;

“proceeds of serious offence” means any property used in or in connection with the commission of a serious offence or any property that is derived or realized directly or indirectly by any person from the commission of any offence or from any act or omission which had it occurred in Swaziland would have constituted a serious offence;

“serious offence” means any offence specified in the Schedule to this Act.

PART II: FORFEITURE AND PECUNIARY PENALTY ORDERS

Application for forfeiture or pecuniary penalty order

3. (1) When a person has been convicted of a serious offence, the Director of Public Prosecutions may, subject to subsection (2), apply to the court convicting that person not later than 6 months after that person's conviction for either or both of the following orders:

- (a) a forfeiture order in respect of particular property;
- (b) a pecuniary penalty.

(2) The Director of Public Prosecutions shall not, except with leave of the court, make an application under subsection (1) for a forfeiture order or pecuniary penalty order -

- (a) if any application has previously been made under that subsection or any other law; and
- (b) the application has been finally determined.

Forfeiture orders

4. (1) When an application is made to a court under section 3 the court may, if it considers it appropriate, order that the property be forfeited to the government if it is satisfied that the property was the proceeds of a serious offence.

(2) In considering whether to make an order under subsection (1) in respect of a particular property, the court may have regard to -

- (a) the use that is ordinarily made or had been intended to be made of the property;
- (b) any hardship that may reasonably be likely to be caused to any person by the order; and
- (c) the gravity of the offence committed.

(3) The Director of Public Prosecutions in applying for an order under subsection (1) shall give notice of application in the manner prescribed by the appropriate rules of court -

- (a) to the person in respect of whose conviction the application is made; and
- (b) to any other person whom the applicant has reason to believe has an interest in the property.

(4) The court may, at any time before the final determination of the application, direct the application to give or publish notice of the application to such other persons, in such manner and within such time as the court thinks fit.

(5) The court may, at anytime before the final determination of the final application and whether or not the period for making the application has expired, amend the notice of application as it thinks fit, either at the request of the applicant or with the approval of the applicant.

(6) The person in respect of whose conviction the application is made and any other person who claim an interest in the property are entitled to appear and to give evidence at the hearing of the application.

Effect of forfeiture order

5. (1) Subject to subsection (2), when the court makes an order in respect of a particular property then immediately on the making of the order the property shall vest absolutely in the Government.

(2) Where immovable property or other property whose ownership passes by virtue of registration is forfeited to the Government, the Government shall be entitled to be registered as the owner of the property, and the Minister shall do or authorise to be done all that is necessary to effect the registration of the Government as the owner, including the execution of any instrument required to be executed by a person transferring an interest in the property of that kind.

(3) The Court may give all directions that are necessary to give effect to a forfeiture order made by it.

(4) Except with leave of the court which made the forfeiture order, property vested in the Crown shall not be disposed of or otherwise dealt with by the crown or by any other person authorised by the Crown before the expiration of the appeal period.

(5) If at the expiration of the appeal period the forfeiture order has not been discharged, the property may be disposed of or otherwise dealt with in accordance with any direction of the Minister or the person authorised by the Minister for the purposes of this subsection.

(6) For the purposes of subsection (4) and (5), the appeal period expires when an appeal may no longer be lodged against either the forfeiture order or the conviction in respect of which the order was made of if such appeal has been lodged, when the appeal has lapsed or had been finally determined.

Effect of forfeiture order on third parties

6. (1) Any person who claims an interest in any property in respect of which the forfeiture order has been made by a court may, subject to subsection (2), apply to the court for an order under subsection (4).

(2) An application under subsection (1) shall be made within 6 months after the making of the forfeiture order, and notice thereof shall be served on the Director of Public Prosecutions.

(3) Notwithstanding subsection (2) the court may permit a person to apply under subsection (1) after the expiration of the 6 months if it is satisfied that the failure to apply within that period was not due to any or delay on the part of that person.

(4) If not an application under subsection (1) the court is satisfied -

- (a) that the applicant was not in any way involved in the commission of the serious offence in respect of which the forfeiture order was made;
- (b) that the applicant acquired the interest in the property in good and value; and
- (c) that the applicant acquired the interest in the property without knowing or in circumstances such as not to arouse a reasonable suspicion that the property -
 - (i) was used in, or in connection with, the commission of a serious offence; or

- (ii) was derived or realised directly or indirectly by any person as a result of the commission of a serious offence the court shall make an order declaring the nature, extent and value (as at the time of making the order) of the applicant's interest in the property and for the transfer of the property and for the transfer of the property to the applicant or for the payment to the applicant of the declared value of the applicant's interest in the property.

(5) If the applicant had been given notice under section 4 of the application for the forfeiture order or had attended the hearing of the application for the forfeiture order, the court shall not make an order under subsection (4) unless it is satisfied that making of the order is justified on these special grounds:

- (a) there is good reason why the applicant did not attend the hearing of the application for the forfeiture order;
- (b) that the evidence now being given by the applicant was not available to the applicant at the time of the hearing of the application for the forfeiture order.

(6) No transfer duty shall be paid under the Transfer Duty Act, 1902 or the Stamp Duties Act, 1970 in respect of the transfer of any property under this section.

Discharge of forfeiture order

7. A forfeiture order may be discharged if -

- (a) the conviction in respect of which the order was made in subsequently quashed; or
- (b) it is discharged by the court which hears an appeal against the order under section 24.

Effect of discharge of forfeiture order

8. (1) If the forfeiture order is discharged in the manner, referred to in section 7, the person who claims to be the person in whom the property was vested immediately before the making of the forfeiture order may -

- (a) if the property is still vested in the crown by virtue of that forfeiture order, by application in writing to the Minister, request the return of the property; or
- (b) if the property is no longer vested in the Crown apply to the court which made the forfeiture order for an order declaring the value (as at the time of making the order under this paragraph) of the property.

(2) The Minister shall, upon receipt of an application under subsection (1) (a) arrange for the property to be transferred to the applicant and for this purpose the Minister may do or authorise to be done of all that is necessary to give effect to the transfer.

(3) Upon the court making an order following an application made under subsection (1)(b) declaring the value (as at the time of making the order) of the property, the applicant for the order may by application in writing to the Minister request the payment of the amount declared by the order.

(4) The Minister shall, upon receipt of an application under subsection (3), direct the person in whom the property is vested to pay to the applicant the amount declared in the order by the court.

(5) No transfer duty of stamp duty shall be paid under the Transfer Duty Act, 1902 or the Stamp Duties Act, 1970 in respect of the transfer of any property under this section.

Pecuniary penalty order

9. (1) If an application is made to the court under section 3 (1) (b) for a pecuniary penalty order in respect of the benefits derived by the person in respect of whose conviction the application is made, the court may -

- (a) assess the value of those benefits;
- (b) order the person to pay to the Government a pecuniary penalty equal to the value of such benefits as assessed under paragraph (a) less -
 - (i) the value (as the time of making the order under this subsection) of any property in respect of which a forfeiture order has been made in relation to the same conviction; and
 - (ii) if the court thinks it desirable to take it into account, any amount payable by way of restitution or compensation in relation to the same conviction.

(2) The amount payable by a person to the Government under a pecuniary penalty order shall for all purposes to be taken to be a civil debt owed by that person to the Government.

(3) A pecuniary penalty order made by a court may be enforced as if it were an order made by the court in civil proceedings instituted by the Government against the person concerned to cover a debt owed by that person to the Government.

Discharge of pecuniary penalty order

10. A pecuniary penalty order may be discharged if -

- (a) the conviction in respect of which the order was made subsequently quashed; or
- (b) it is discharged by the court which hears an appeal against the order under section 24.

PART III: RESTRAINING ORDERS

Restraining orders

11. (1) If a person has been, or is about to be charged with a serious offence, the Director of Public Prosecutions may apply to the court for a restraining order under this section in respect of -

- (a) specified property of that person;
- (b) all the property of that person, including property acquired by that person after making of the order; or
- (c) specified property of any other person what was used in, or in connection with, the commission of the offence or was derived or realised, directly or indirectly, by that other person, as a result of the commission of the offence.

(2) An application under subsection (1) shall be supported by an affidavit stating the following matters and the grounds therefor -

- (a) that the person charged or about to be charged with the serious offence, committed the offence; and
- (b) in the case of an application in respect of specified property -
 - (i) that a forfeiture order may be made in respect of the property, if the person is convicted of the offence;
 - (ii) that the property is the property of the person charged or about to be charged, and that a pecuniary penalty may be made if the person convicted of the offence; and
- (c) in the case of an application in respect of all the property of the person, that a pecuniary penalty order may be made if the person is convicted of the offence; and
- (d) there is the risk that before a forfeiture order or pecuniary penalty order is made, the person concerned would, unless restrained from doing so, be likely to dispose of, or otherwise deal with, the property to such an extent as to prevent the forfeiture or pecuniary penalty order being effected or complied with.

(3) An application for an order this section shall give notice of the application in the manner prescribed by the appropriate rules of court -

- (a) to any person whose property is the subject of the application; and
- (b) to any other person whom the applicant has reason to believe has an interest in any property that is the subject of the application.

(4) The court may grant a restraining order notwithstanding that no notice of the application has been given under sub-section (3) if the court is satisfied that -

- (a) circumstances of urgency require the granting of the order; or
- (b) it is not in the public interest to give notice of the application.

(5) The court may, at any time before the final determination of the application, direct the applicant to give or publish notice of the application to such other persons, in such manner and within such time as the court thinks fit.

(6) Any person whose property is the subject of the application and any other person who claims an interest in any such property are entitled to appear and to give evidence at the hearing of the application.

(7) Any person whose property is the subject of the application and any other person who claims an interest in any such property are entitled to appear to give evidence at the hearing of the application.

(8) On an application under subsection (10) the court may, if it considers that having regard to the matter contained in the affidavit, there are reasonable grounds in support of the application, by order -

- (a) direct that the property specified in the order is not to be disposed of or otherwise dealt with by any person, except in such manner and in such circumstances (if any) as are specified in the order; or

(b) direct a trustee to take control and custody of the property.

(9) If an application is made in anticipation of a charge being laid against the person of the offence in respect of which the application is made, the court shall not issue the restraining order unless it is satisfied that the person will be charged with the offence within 48 hours.

(10) A restraining order may provide for meeting the reasonable living and business expenses of the person to whose property the order relates and reasonable costs and expenses of the person defending a criminal charge against that person.

Court may make further orders

12. When a court grants a restraining order, it may at the time it makes the order or at any later time, make any ancillary order which it considers just, including -

- (a) an order varying the property to which the restraining orders relates;
- (b) an order varying any condition of the restraining order;
- (c) an order for the examination before a court on oath of the person (in the section referred as the respondent) whose property or the respondent;
- (d) where the property is in the custody or under the control of a trustee -
 - (i) an order directing the manner in which the trustee may exercise his powers or perform his duties in relation to the property;
 - (ii) an order determining any question relating to the property, including any question relating to the liabilities of the respondent; or
 - (iii) any order directing the respondent to furnish the trustee within a specific period with a statement setting out such particulars of the property as the court may think fit.

(2) Any person who has an interest in the property which is the subject of a restraining order may apply to the court for variation of the order to exclude that person's interest from the order and the court shall grant the application if it is satisfied that -

- (a) the application was not in any way involved with the commission of the offence; and
- (b) the interest in the property was acquired for sufficient value without knowledge and in circumstances such as not to arouse a reasonable suspicion that the property was derived or realised, directly or indirectly by any person as the result of the commission of a serious offence.

(3) A person who has been convicted of or has been charged or is to be charged with a serious offence and whose property is subject to a restraining order may apply to the court for the exclusion of the property from the order, and the court shall grant the application if it is satisfied that-

- (a) the property was not used in or in connection with the commission of the offence; and
- (b) the interest in the property was lawfully acquired.

(4) If a person is examined before a court by virtue of an order under sub-section (10)(b), that person shall not be excused from answering any question on the ground that the answer might tend to incriminate him or make him liable to a penalty

(5) A statement or disclosure made by a person in answer to a question put in the course of an examination referred to in sub-section (1)(b) shall be admissible against that person in -

- (a) any civil proceeding;
- (b) a proceeding for giving false testimony in the course of the examination;
- (c) a proceeding for the making of a forfeiture order, for the purpose only of facilitating the identification of the property which is subject to the forfeiture order; or
- (d) a proceeding for the making of a pecuniary penalty order, for the purpose only of assessing the value of the purpose only of assessing the value of the benefits derived by the person as the result of the commission of the offence

but shall not otherwise be admissible in evidence against that person

(6) A person ordered under subsection (1)(b) to attend an examination before a court who -

- (a) without reasonable excuse fails to attend as required by the order;
- (b) without reasonable excuse refuses or fails to take an oath or make an affirmation for the purpose of the examination;
- (c) refuses or fails to answer a question that the person is directed by the court to answer; or
- (d) knowingly makes a statement in the course of the examination that is false or misleading in a material particular.

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

Contravening of restraining orders

13. (1) Any person who disposes of or otherwise deals with property which is the subject of a restraining order shall be guilty of an offence and liable.

- (a) in the case of an individual, to a fine not exceeding ten thousand Emalangeni or the value of the property whichever is the greater, or to imprisonment not exceeding five years or both;
- (b) in the case of a body corporate, to a fine not exceeding fifty thousand Emalangeni or three times the value of the property, whichever is the greater.

(2) Any authorised dealing with any property which is the subject of a restraining order may be set aside by the court at the instance of the Director of Public Prosecutions.

Court may renounce restraining orders

14. (1) The court may, on application by the person against whom a restraining order has been granted under section 11, revoke the order if that person gives security to the satisfaction of the court for the payment of any pecuniary penalty that the court may impose or gives an undertaking satisfactory to the court concerning that person's property.

(2) Notice of the application under subsection (1) shall be given in the manner prescribed by the appropriate rule of court to the Director of Public Prosecutions and, where the property is in

the custody or under the control of a trustee, to the trustee, both of whom are entitled to appear and give evidence at the hearing of the application.

When restraining order ceases to have effect

15. (1) A restraining order shall cease to have effect if the charge against the person in respect of whom the order is made is withdrawn or if the person is acquitted of the charge.

(2) If the court makes a forfeiture order or pecuniary penalty order, restraining order shall cease to have effect if that order is satisfied or otherwise discharged.

PART IV: POWERS OF SEARCH AND SEIZURE

Search warrant

16. (1) A police officer may apply to a magistrate's court for a search warrant to be issued under this Part in respect of any premises if the officer has reasonable grounds to suspect that there is in or on the premises property that -

- (i) was used in or in connection with the commission of a serious offence; or
- (ii) was derived or realised, directly or indirectly, by any person as the result of the commission of a serious offence.

subsection (1) may, if satisfied that there are reasonable grounds for believing that there is in or on the premises property that -

- (a) was used in or in connection with the commission of a serious offence; or
- (b) was derived or realised, directly or indirectly, by any person as the result of the commission of the serious offence

issue a search warrant authorising the police officer to enter and search the premises for property of the kind referred to in the warrant and to search any person found in or on the premises, and to seize such property.

(3) There shall be stated in the warrant -

- (a) the purpose for which the warrant is issued;
- (b) the nature of the serious offence in respect to which the warrant is issued; and
- (c) a description of the kind of property authorised to be seized.

(4) A warrant issued under subsection (20) shall be in the form prescribed under the Criminal Procedure and Evidence Act, 1938.

Search and seizure without warrant

17. Where by reason of circumstances of urgency a police officer considers it necessary to do so, he may without warrant -

- (a) enter any premises and search for any proceeds of a serious offence;
- (b) search any person in or on the premises for the proceeds of a serious offence.

And seize such proceeds if the officer believes on reasonable grounds that it is necessary to do so in order to prevent the disposal, concealment, loss or destruction of the proceeds of the offence.

Seizure of property under search warrant

18. (1) A police officer executing a search warrant may seize property of the kind described in the warrant.

(2) A police officer executing a search warrant may also seize property which is not of the kind described in the warrant if -

- (a) the officer believes on reasonable grounds that the property is of a kind which would have been included in a search warrant issued under this Part;
- (b) the officer believes on reasonable grounds that it is necessary to seize that property in order to prevent its disposal, concealment, loss or destruction or its use in the commission or continuing commission of a serious offence.

Responsibility for seized property

19. When the property is seized under this Part the Commissioner of Police shall arrange for the property to be kept and shall ensure that all reasonable steps are taken to preserve it while it is so kept until it is required for the purposes of this Act or disposed of under this Act.

Obstruction of person executing search warrant

20. Any person who without reasonable excuse obstructs or hinders any person executing a search warrant under this Part shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand Emalangenis or imprisonment not exceeding twelve months or both.

Return of seized property

21. (1) If the property has been under a warrant and -

- (a) appears that the property was seized otherwise than because it may afford evidence of the commission of a serious offence; or
- (b) at the expiration of seven days after the property was seized, no person has been charged with the serious offence in respect of the commission of which the warrant was issued, and an application for forfeiture has not been made in respect of the property; or
- (c) a person has been charged with and convicted of such serious offence but at the expiration of the period of six months after the date of conviction or the expiration for a forfeiture order has not been made in respect of the property; or
- (d) a person has been charged of such offence and has been discharged or acquitted.

The Commissioner of Police shall arrange for the property to be returned to the person from whose possession it was seized.

(2) For the purpose of subsection (1), the appeal period expires when an appeal may no longer be lodged against the conviction, discharge or acquittal as the case may be or if such an appeal is lodged, when the appeal has lapsed or has been finally determined.

(3) If -

- (a) property has been seized under a search warrant; and
- (b) an application has been made under this Act to a court for a forfeiture order in respect of the property; and

the court has refused to make the forfeiture order, it shall make an order directing that the property be returned to the person from whose possession it was seized.

Production of documents

22. (1) Where a person has been convicted of or is reasonably suspected of having committed a serious offence and a police officer has reasonable grounds to suspect that any person has possession, control or custody of any document relating to property in respect of which the offence is committed or is suspected to have been committed he may apply to the court for an order directing that person to produce to the Commissioner any document described in the order and which is in that person's possession, control or custody.

(2) An application under subsection (1) shall be supported by an affidavit stating the grounds for the suspicion.

(3) Where a document is produced to the Commissioner of Police, a police officer may -

- (a) inspect the document;
- (b) take extracts from the document;
- (c) make copies of the document; or
- (d) retain the document if the retention of the document is reasonably necessary for purposes of this Act.

(4) A person shall not be excused from producing a document on the ground that the production of the document -

- (a) might tend to incriminate him liable to a penalty; or
- (b) would be in breach of any obligation or privilege not to disclose the existence or contents of the document.

(5) The production of a document under this section or any other information, document or thing obtained as a direct consequence of the production of that document, shall not be admissible against any person other than the person against whom charges have been or are to be laid in any criminal proceedings which are not proceedings relating to -

- (a) a contravention of the order of the court; or
- (b) the production of a document known to the person to be false or misleading in a material particular.

(6) For the purposes of subsection (5), proceedings relating to an application for a forfeiture order, a pecuniary, penalty order or a restraining order, shall not be regarded as criminal proceedings.

Variation of production order

23. If a court makes an order requiring a person to produce to the Commissioner of Police, that a person may apply to the court for a variation of the order and if the court is satisfied that the document it is essential to the business of that person, it may vary the order so as to require that person to make the document available to the Commissioner of Police for inspection only.

PART V: MISCELLANEOUS*Appeals*

24. (1) Without prejudice to any other right of appeal a person who has an interest in property in respect of which a forfeiture order is made may appeal against that order in the same manner as if the order were part of, the sentence imposed on the person convicted of the serious offence in relation to which the order was made.

(2) Without prejudice to any other right of appeal, a person against whom a pecuniary penalty order is made may appeal against the order in the same manner as if it were, or were part of, the sentence imposed in respect of the offence in relation to which the order was made.

(3) On appeal, a forfeiture order or a pecuniary penalty order may be confirmed, discharged or varied.

(4) The Director of Public Prosecutions may appeal against a forfeiture order or a pecuniary order against the refusal of a court to make such order in the same manner as if the order were, or were part of, the sentence imposed in respect of the offence.

Amendment of Schedule

25. The Minister may by Notice in the Gazette amend the Schedule to this Act.

Regulations

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

Operation of other law not affected

27. Nothing in this Act shall limit the operation of any other law.

SCHEDULE
SERIOUS OFFENCES

1. Murder;
2. Culpable homicide;
3. Robbery or Extortion;
4. Arson;
5. Breaking and entering any premises with intent to commit an offence either at common law or in contravention of any statute;

6. Theft either at common law or under statute;
 7. Receiving stolen property knowing such goods or property to have been stolen;
 8. Fraud;
 Forgery or uttering of forged document knowing it to be forged;
 9. Offences against the statute dealing with theft and kindred offences by public officers;
 10. Offences against the law for the prevention of illicit dealing in or possession of precious metal or stones;
 11. Offences against the law relating to the possession, conveyance or supply of dangerous or poisonous drugs or habit forming drugs;
 12. Offences relating to coinage;
 13. Illicit dealing in arms and ammunition;
 14. Offences against the law relating to the prevention of corruption;
 15. Any conspiracy, incitement or attempt to commit any of the above offences.
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LEGAL NOTICE NO. 49 OF 2000

THE COMMISSIONS OF ENQUIRY ACT, 1963**THE APPOINTMENT OF THE RURAL SETTLEMENT POLICY TASK FORCE
(EXTENSION OF TIME) NOTICE, 2000
(Under Sections 4 and 5)**

In exercise of the powers conferred by Sections 4 and 5 of the Commission of Enquiry Act, 1963 the Minister for Agriculture and Co-operatives issues the following Notice -

Citation and commencement

1. This Notice may be cited as the Appointment of the Rural Settlement Policy Task Force (Extension of Time) Notice, 2000 and shall be deemed to have come into force on the 2nd December, 1999.

Extension of time

2. The time within which the Task Force shall submit its report is extended from 1st December, 1999 to 31st July, 2000.

N. M. NKAMBULE

Principal Secretary, Ministry of Agriculture and Co-operatives

LEGAL NOTICE NO. 50 OF 2000

**THE CIVIL SERVICE ORDER, 1973
(Order No. 16 of 1973)****APPOINTMENT OF ACTING PRINCIPAL SECRETARIES
(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:

NOMATHEMBA MAGDELENE DLAMINI

to act as Principal Secretary in the Ministry of Economic Planning and Development with effect from 24th March, 2000 to 8th April, 2000.

ISHMAEL LINDINKOSI MATSE

to act as Principal Secretary in the Ministry of Foreign Affairs and Trade with effect from 24th March to 9th April, 2000.

MESHACK MFANA SHONGWE

to act as Principal Secretary in the Ministry of Finance with effect from 24th March, 2000 to 9th April, 2000.

BHEKILANGA SAMUEL MALINGA

to act as Principal Secretary in the Ministry of Health and Social Welfare with effect from 23rd December, 1998 to 15th January, 1999.

BHEKILANGA SAMUEL MALINGA

to act as Principal Secretary in the Ministry of Public Service and Information with effect from 24th March, 2000 to 9th April, 2000.

THUS DONE UNDER MY HAND AT **LOZITH'EHLEZI** ON THIS 11TH DAY OF MAY 2000.

**MSWATI III
KING OF SWAZILAND**

LEGAL NOTICE NO. 51 OF 2000

**THE CIVIL SERVICE ORDER, 1973
(Order No. 16 of 1973)**

**APPOINTMENT OF ACTING ATTORNEY-GENERAL
(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:

MZWANDILE RAYMOND FAKUDZE

to act as Attorney-General in the Attorney General's Chambers with effect from 3rd April, 2000 to 30th June, 2000.

THUS DONE UNDER MY HAND AT **LOZITH'EHLEZI** ON THIS 11TH DAY OF MAY 2000.

**MSWATI III
KING OF SWAZILAND**

LEGAL NOTICE NO. 52 OF 2000

THE TEACHING SERVICE ACT, 1982
(Act No. 1 of 1982)

APPOINTMENT OF MEMBERS OF THE TEACHING SERVICE COMMISSION
(Under Section 9)

In exercise of the powers conferred by Section 9 of the Teaching Service Act, 1982, the Minister for Education, after consultation with the Prime Minister, hereby appoint the following persons to the Teaching Service Commission with effect from 17th May, 2000 to 17th May, 2002 -

Wilson Mfanyana Jele	- Chairman
Mpho Charlotte Mhlanga	- Member
Patrick Sello Sedibe	- Member
Margaret Phetfwayini	- Member

REV. ABEDNEGO NTSHANGASE
Minister for Education