



SWAZILAND GOVERNMENT GAZETTE

VOL. XXXVIII]

MBABANE, Friday, September 22nd., 2000

[No. 606

CONTENTS

No.	Page
-----	------

GENERAL NOTICES

- | | |
|---|-----|
| 158. The Development Approval Order Notice, 2000 | 896 |
| 159. Appointment of Member of the Local Advisory Committee on the Recording and
Codification of Swazi Law and Custom | 899 |

ADVERTISEMENTS	900
----------------------	-----

CONTENTS OF SUPPLEMENT

PART A - BILLS

- | | |
|---------------------------------------|----|
| 10. Flora Protection Bill, 2000 | S1 |
|---------------------------------------|----|

PUBLISHED BY AUTHORITY

GENERAL NOTICE NO. 158 OF 2000

THE INCOME TAX ORDER, 1975

(King's Order-in-Council No. 21 of 1975)

THE DEVELOPMENT APPROVAL ORDER NOTICE, 2000
(Under Section 69)

It is notified for public information that in terms of section 69(2) of the Income Tax Order, 1975 the Minister for Finance is vested with the power to, in appropriate cases and at the Minister's satisfaction, issue a "development approval order" to a nominated business granting such business additional tax concessions. In exercise of the powers vested upon the Minister by this section, the Minister issues the following Notice.

Citation.

1. This Notice may be cited as the Development Approval Order Notice, 2000.

Section 69(2) of the Income Tax Order.

2. Section 69 (2) of the Order provides as follows -

"2. (a) Notwithstanding any other provisions of this Order, where the Minister is satisfied that a new business is beneficial to the development of the economy, he may, with the prior consent of Cabinet, nominate such business as a development enterprise, and he may issue an order, known as "development approval order" in respect of such business, granting additional tax concessions to such business;

- (b) (i) Any person seeking tax concession under this subsection shall, prior to the commencement of business, apply to the Minister in a manner prescribed by him;
- (ii) The Minister may, upon examination of such application, grant or refuse to grant, in writing a tax concession for the purpose of this sub-section;
- (iii) The Minister's decision under paragraph (ii) shall be final.
- (c) A development approval order may be issued subject to such conditions, and for such period of time, as the Minister deems fit;
- (d) The Minister shall, within twenty-one days of the issue of a development order under paragraph (a), cause to be published, by notice in the Gazette the name and address of the business nominated as a development enterprise under paragraph (a);
- (e) The Minister may, at any time, with the concurrence of Cabinet, amend or revoke a development approval order issued in terms of the subsection;

Provided that where the Minister has cause to revoke a development approved order, he shall, within a period of twenty-one days, cause such revocation to be published, by notice, in the Gazette;

- (f) Paragraphs (a) to (e) are deemed to have come into effect from 1st July, 1984.

Implementation, application and determination.

3. For the purposes of conferring the provisions of Section 69(2) the Minister informs members of the public so interested that the Cabinet has approved the implementation of section 69(2) of the Order and the application of the following guidelines and conditions -

- (a) a tax concession granted by means of a Development Approval Order shall be granted for-
 - (i) a period of ten (10) years; and
 - (ii) a tax concession on corporate tax at the maximum rate of 10%; and
 - (iii) an exemption from withholding tax on dividends during the ten (10) year period specified under subparagraph (i);
- (b) the grant of a Development Approval Order shall only be applicable to approved new investments, business or development enterprises in the manufacturing, mining, international services and tourism sectors and the grant shall be available to both local and foreign direct investments, provided-
 - (i) the investment entity shall be a company registered and incorporated in Swaziland under the applicable law; and
 - (ii) the company shall have been promoted by reputable promoters with demonstrable successful track record;
- (c) the Development Approval Orders or the tax concessions so contained in a Development Approval Order shall only be available, subject to the fact or decision that the grant of the tax concessions or Development Approval Order may not unfairly discriminate against existing competing enterprises or business, to enterprises or businesses as defined in paragraph (g);
- (d) in addition to paragraph (c), "expansions of existing enterprises" shall be eligible for consideration and grant of a Development Approval Order, subject to the same provisions of paragraph (c) and provided that such expansions are implemented as stand-alone, independently incorporated businesses or companies;
- (e) qualifying investments for consideration and grant shall yield a ten percent (10%) minimum economic rate of return (ERR) which shall be evaluated by the committee mentioned under section 3 (1) on the basis of the economic analysis of the applicant's project proposal;
- (f) an applicant for consideration and grant of a Development Approval Order shall submit detailed project proposals in a prescribed format or on a prescribed form whose contents shall form the basis for determination of the projects' E.R.R. and, where the Development Approval Order is granted, it shall be used for subsequent evaluation of the projects' compliance with the conditions attaching to the grant and in default of which the Minister shall invoke the provisions of section 69(2)(e) of the Income Tax Order.
- (g) for purposes of paragraph (c)-

"existing competing enterprises" means those business enterprises, which are currently supplying the domestic market with goods, or services which are similar in all material respects to those proposed by the applicant for tax concessions by means of a Development Approval Order".

3. (1) An applicant for a Development Approval Order shall make an application to the Minister for Finance in terms of this Notice or the Income Tax Order who shall refer such application to a professional committee comprising of officials from the Ministry of Finance, the Ministry of Enterprise and Employment and the Swaziland Investment Promotion Authority (SIPA) to assist the Minister in evaluating the application in accordance with the set criteria, rules or guidance principles taking into account the purposes of section 69(2).

(2) The committee referred to in this section shall, after evaluating the application, make appropriate recommendations to the Minister for the Minister's final determination and action in terms of section 69(2) of the Income Tax Order.

(3) The Minister shall not issue any grant or confer any tax concessions to an applicant of a Development Approval Order or nominate a business as a development enterprise unless the Minister has first obtained the approval of the Cabinet so to do.

Conditions to be stipulated in a grant.

4. The following conditions shall be stipulated in a Development Approval Order in terms of section 69 (2) (c) -

- (i) that the business shall within a specified period undertake the development specified in the Development Approval Order;
- (ii) that the business shall strictly comply with all its tax obligations under the Income Tax Order;
- (iii) that the business shall not breach any conditions specified in the order, and
- (iv) that the business to which a Development Approval Order relates shall be entitled to the relief specified in the order if the Commissioner is satisfied that the development to which the order relates is or has been carried out.

Revocation of grant.

5. (1) The Minister may, at any time with the concurrence of the Cabinet, amend or revoke a Development Approval Order issued under section 69 (2) of the Income Tax Order in the event any one or all of the following events occur -

- (i) failure to meet the eligibility criteria;
- (ii) failure to comply with tax obligations, including but not limited to, failure to furnish returns or pay tax as evidenced by the Commissioner of Taxes;
- (iii) failure of the business to substantially carry out the development specified in the Order, or
- (iv) where there has been a substantial breach of any conditions as may be specified in the Order.

(2) The Minister shall, before the issuance of a revocation or amending order and before its publication in the Gazette, by notice in writing to the owner, director or person who appears to the Minister to be in charge of the business or enterprise afford such owner, director or person an opportunity either to -

- (i) rectify the failure or breach; or
- (ii) to show cause why, within such time as may be specified and being not less than 30 days from the date of issue of such notice, the Development Approval Order should not be amended or revoked.

J.P. CARMICHAEL
Minister for Finance

GENERAL NOTICE NO. 159 OF 2000

**APPOINTMENT OF MEMBER OF THE LOCAL ADVISORY COMMITTEE ON
THE RECORDING AND CODIFICATION OF SWAZI LAW AND CUSTOM**

It is notified for general information that **MR. ABNER T. TEMBE** is hereby appointed as Coordinator of the Local Advisory Committee on Recording and Codification of Swazi Law and Custom for the period 22nd December 1999 to 22nd December 2000.

H.D. MAGAGULA (DR)
Principal Secretary
Ministry of Justice and Constitutional Development

900

NOTICE

Notice is hereby given that I, Almon Mbuyisa of Manzini Region intend to apply to the Honourable Minister for Justice of the Kingdom of Swaziland for authorisation to assume the surname Mkhwanazi 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 Manzini Region and in the Government Gazette.

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

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

P. O. Box 9
Mankayane

B1245 4x22-09-2000

NOTICE

Notice is hereby given that I, Themba Robson Sithole of Shiselweni Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mtsweni 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 Mtsweni is my natural surname.

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

P. O. Box 52
Mbabane

B1253 4x29-09-2000

NOTICE

Notice is hereby given that I, Thandiwe Muntuza Cathrine Mazibuko of Manzini Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mlambo 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 Manzini Region and in the Government Gazette.

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

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

P. O. Box 642
Manzini

B1263 4x29-09-2000

901

NOTICE

Notice is hereby given that I, Samson Bafana Kunene of Manzini Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Tsela 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 Manzini Region and in the Government Gazette.

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

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

P. O. Box 2803
Manzini

B1284 4x06-10-2000

NOTICE

Notice is hereby given that I, Timothy Manyosi Dlamini of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Simelane 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 Simelane is my natural surname.

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

P. O. Box 104
Mliba
Swaziland

B1315 4x13-10-2000

NOTICE

Notice is hereby given that I, Nhlanhla Litho Mziyako of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Zwane 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 Zwane is my natural surname.

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

P. O. Box 3300
Manzini
Cell: 604 9098

B1316 4x13-10-2000

NOTICE

ESTATE LATE: JOSEPHINE G. MADONSELA ESTATE NO. EH/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.

ESTHER N. DLAMINI
P. O. Box 52
Mbabane

B1319 22-09-2000

NOTICE

ESTATE LATE: ALMON MBHUTI GAMA ESTATE NO. EM126/2000

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.

GABSILE GAMA
P. O. Box 531
Manzini

B1307 22-09-2000

NOTICE

ESTATE LATE: BABILI VIVIAN DLAMINI ESTATE NO. EH255/97

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.

SOLOMON L. DLAMINI
P. O. Box 1853
Mbabane

B1317 22-09-2000

903

NOTICE

ESTATE LATE: MHLOLI MAMBA ESTATE NO. EP11/98

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.

PHOKOSHANE MAMBA
P/B Manzini

B1320 22-09-2000

NOTICE

ESTATE LATE: JAMES ROY KUNENE ESTATE NO. EM446/99

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.

SINDIE HADZEBE
P. O. Box 308
Manzini

B123 22-09-2000

NOTICE

ESTATE LATE: ISRAEL NQABA DLAMINI ESTATE NO. ES244/99

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.

ABNER DLAMINI
P. O. Box 51
Malkerns

B1318 22-09-2000

904

NOTICE

ESTATE LATE: SAMUEL NHLEBO MNGOMETULU ESTATE NO. EM165/2000

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.

SIPHIWE MNGOMETULU
P. O. Box 397
Manzini

B1306 22-09-2000

NOTICE

ESTATE LATE: SIPHO NELSON NKAMBULE ESTATE NO. EM247/2000

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.

TONY Z. NKAMBULE
P. O. Box 5830
Mbabane

B1308 22-09-2000

NOTICE

ESTATE LATE: MDUDUZI ELLIOT MDLULI ESTATE NO. EM213/2000

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.

MISS BUSISIWE OCTAVIA DLAMINI
P. O. Box 100
Piggs Peak
Swaziland

B1309 22-09-2000

NOTICE

ESTATE LATE: EVELYN GUGU DLAMINI ESTATE NO. EP41/2000

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.

JABULANI ZWANE
P. O. Box 546
Mbabane

B1310 22-09-2000

905

NOTICE

ESTATE LATE: CYPRIAN M. SHONGWE ESTATE NO. EM328/99

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.

PHYLLISIA MBINGO
P. O. Box 89
Kwaluseni

B1311 22-09-2000

NOTICE

ESTATE LATE: PHILEMON R. F. SIMELANE ESTATE NO. EH124/2000

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.

MOSES SIMELANE
P. O. Box 360
Manzini

B1312 22-09-2000

NOTICE

ESTATE LATE: SELBOURNE MASHEGO ESTATE NO. EH41/2000

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.

ELIZABETH MASHEGO (NEE MAHLALELA)
P. O. Box 94
Mhlume

B1313 22-09-2000

NOTICE

ESTATE LATE: MADASI ESAW NTSANGASE ESTATE NO. EM275/2000

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.

BONSILE NTSANGASE
P. O. Box 26
Mankayane

B1314 22-09-2000

906

NOTICE

ESTATE LATE: DUMSILE MARY GAMA ESTATE NO. ES249/99

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.

ALFRED GAMA
P. O. Box 43
Hlatikhulu

B1322 22-09-2000

NOTICE

ESTATE LATE: FANYANA TIMOTHY SIMELANE ESTATE NO. ES130/2000

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.

KHETSIWE J. SIMELANE
P. O. Box 306
Hlatikhulu

B1321 22-09-2000

NOTICE

ESTATE LATE: FANNY FRIEDMAN ESTATE NO. EM262/2000

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

ROBINSON BERTRAM
Attorneys for Executors/Testamentary
Executrix/Dative
Sokhamlilo Building
Johnstone Street
P. O. Box 24
Mbabane

B125 22-09-2000

NOTICE

ESTATE LATE: PHUMZILE NGCAMPHALALA ESTATE NO. ES131/2000

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.

JEREMIAH NGCAMPHALALA
P. O. Box 350
Hlatikhulu

B124 22-09-2000

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XXXVIII]

MBABANE, Friday, September 22nd., 2000

[No. 606

CONTENTS

No.

Page

PART A - BILLS

10. Flora Protection Bill, 2000	S1
---------------------------------------	----

PUBLISHED BY AUTHORITY

PART A

S1

FLORA PROTECTION BILL, 2000 (Bill No. 10 of 2000)

(To be presented by the Minister for Agriculture and Cooperatives)

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to repeal and replace the Flora Protection Act No. 45 of 1952 so as to provide for more effective protection of flora and to provide for matters incidental thereto.

P. M. DLAMINI
Attorney General

A BILL entitled

An Act to protect indigenous flora and to provide for matters incidental thereto.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement

1. This Act may be cited as the Flora Protection 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:-

“Authority” means the Swaziland Environment Authority established by the Swaziland Environment Authority Act No. 15 of 1992;

“cultivate” means to promote, stimulate or foster the growth of a plant, or plant material (including seed) obtained lawfully in terms of this Act, and “cultivated” and “cultivation” have corresponding meanings;

“endemic flora” means any flora whose natural distribution is restricted to the boundaries of Swaziland;

“flora reserve” means a reserve established in terms of Section 3;

“indigenous flora” means any plant whose natural distribution is Southern Africa including Swaziland;

“land” includes land with or without buildings thereon;

“Minister” means the Minister responsible for Flora;

“plant” means any vegetative or reproductive growth including fungi, algae, mosses, lichens, liverworts, ferns, fern allies or seed plant whether living or dead;

"owner" means:-

- (a) in the case of Swazi Nation Land, the Ngwenyama in Trust for the Swazi Nation;
- (b) the registered owner of a holding, whether it is a plot, lot, erf, portion or farm;
- (c) the lessee or lawful occupier of a holding in the case of a lease of ten or more years;
- (d) in relation to land concession, the concessionaire;
- (e) a legal representative in the case of an insolvent estate, a company in liquidation, a deceased estate, a minor, a person of unsound mind or otherwise under any disability;

"protected Flora" means a plant included in schedules A, B, C or growing in a flora reserve or special habitat or botanic garden;

"a public road" means-

- (a) any road established, proclaimed or recognised under the provisions of any law and includes bridges over which such roads pass;
- (b) any road or thoroughfare, however created which, before and after the commencement of this Act has been in the undisturbed use of the public or which the public had the right to use during a period of not less than three (3) years and includes bridges over which such roads pass and include;
- (c) any street or thoroughfare and any public place whatever open to use of the public for purposes of vehicular traffic;

"rare flora" means flora included in schedule C and whose populations are at risk should an unforeseen threat come up;

"sell" includes offering or exposing for sale, delivering pursuant to sale, bartering, hawking, peddling or any other form of trading in any plant or part thereof;

"a special habitat" means a piece of land containing plant species of ecological, aesthetic or socio-economic importance or concern and declared as such under Section 3 of this Act;

"specially protected flora" or "endangered flora" means flora included in Schedule A and in danger of extinction if casual agents continue to be unchecked;

"vulnerable flora" means flora included in Schedule B and likely to be in danger if the casual agents continue to operate.

Establishment of flora reserves, botanic gardens and protection of special habitats

3. The Minister may from time to time by notice in the gazette:-

- (a) with effect from a date specified by him in each case, establish one or more flora reserves and/or botanic gardens at the same time defining the boundaries thereof and restricting and prohibiting the doing of any act which may destroy protected flora therein;
- (b) with effect from a date specified by him in each case, declare certain portions of land as 'special habitats' at the same time defining the boundaries thereof and restricting and prohibiting the doing of any act which may destroy protected flora therein;

- (c) extend the boundaries of any flora reserve, botanic garden or special habitats established in terms of paragraphs (a) and (b) or alter such boundaries or disestablish any such flora reserve, botanic garden or special habitat with effect from a specified date.

Inclusion of plants in a Schedule

3. The Minister may from time to time by notice in the gazette:-

- (a) include or delete from the Schedule A, B or C the name of any species or kind of plant or group of plants;
- (b) amend the Schedules.

Unlawful picking of protected flora

5. (1) Subject to Section 5 (2), 5 (3), 5 (4) and 6 (1), no person shall pick, pluck, gather, cut, uproot, injure, break, process or destroy any protected flora or part thereof, including seeds of such protected flora.

(2) Any owner or occupier of land may pick, pluck, gather, cut, uproot, process or destroy:-

- (a) protected flora that has been lawfully cultivated by the owner or occupier of any portion of land specially set aside for such purposes;
- (b) protected flora that is growing on land which is bonafide required for agriculture, building or other development and who has at least eight weeks prior to commencement of such operations applied in writing with full particulars of his intentions to the Minister for permission to do so:

Provided that the owner or occupier shall be entitled to proceed should the Minister fail to grant or refuse permission within eight weeks.

(3) The holder of the permit issued under section 6 (1) may pick, cut, uproot or dig out such protected flora as specified in such permit.

(4) Nothing in this Section shall be construed as permitting the plucking, picking, cutting, uprooting, digging out, injuring, breaking, processing or destroying any specially protected flora, save in the case of a permit issued by the Minister in which such specially protected flora is specified.

Permits to pluck, cut or uproot protected indigenous flora

6. (1) The Minister may issue a permit authorising the holder thereof to pick, pluck, cut, uproot or dig out the species and quantities of protected flora specified in such a permit, in a locality and during a period likewise specified, subject to other conditions as may be specified in such a permit;

Provided that:

- (a) when the plucking, cutting or uprooting or digging out takes place on land which the applicant is not the owner, such permits may only be issued if the written permission of the owner of such land has been obtained;
- (b) the permit may not be issued for plucking, cutting, uprooting or digging out of protected flora on land along either side of a public road within a distance of 45 metres in width measured from the centre of such roads, unless the Minister or the person authorised by him finds that there are exceptional circumstances including obstruction of vision, traffic, telecommunication or power supplies, which justify the issue of such permit.

- (2) The permit issued by the Minister shall be as specified in Schedule D to the Act.

Prohibition of Export

7. (1) No person shall export or attempt to export from Swaziland any protected flora, except upon or subject to the conditions of a permit issued by the Minister;

(2) The Minister may, at his discretion, issue or refuse to issue a permit for the exportation of or removal of protected flora from Swaziland, and may insert in such a permit such conditions as he considers desirable.

(3) A permit issued in terms of this section shall only be available for use by the person to whom and in whose name it is issued and shall be made available to officers mentioned in (4) as long as the stated protected flora is dealt with.

(4) A Police Officer, Customs Officer or any Public Officer authorised by the Minister in that behalf who on reasonable grounds suspects that any protected flora which is in the possession of any person, or in or on a vehicle is being exported unlawfully, may arrest the person in possession of such protected flora and the vehicle for the purpose of proceedings to be instituted against such a person in connection with such protected flora.

(5) Any person who hinders, obstructs or interferes with an officer mentioned in subsection (4) in the execution of his duties imposed upon him under this section, is guilty of an offence and liable on conviction to the penalties set out in section 17.

Unlawful entry into flora reserves, botanic gardens and special habitats

8. (1) Any person who destroys fencing material, enters into, sets fire onto or wilfully destroys or digs, cuts and uproots plants in a flora reserve, botanic garden and special habitat, established in terms of Section 3 without a permit is guilty of an offence and on conviction, liable to the penalties set out in Section 17 of this Act.

(2) Any police officer, custom officer or any public officer authorised by the Minister on that behalf, who on reasonable grounds suspect that a person is contravening subsection (1), may arrest the person and confiscate vegetative and/or reproductive material or the container or the vehicle in which the plant material is carried for the purposes of proceedings to be instituted against such person.

(3) Any person who hinders, obstructs or interferes with any Officer mentioned in subsection (2), in the execution of his duties imposed upon him under this section, is guilty of an offence and liable on conviction to the penalties set out in Section 17.

Unlawful sale of protected flora

9. (1) No person shall sell any protected flora unless such person holds a permit issued in terms of the Plant Control Act 1981:

Provided that the holder of a permit issued in terms of the Act may sell protected flora as prescribed in such permit.

(2) No person shall purchase protected flora other than from a nursery registered in terms of the Plant Control Act, 1981 or from a person possessing a permit obtained from the Minister authorising him to sell the protected flora.

Permits to sell protected flora

10. (1) The Minister may issue a permit authorising the holder thereof to sell protected flora.

(2) The permit shall specify the species, or kind of protected flora which may be sold by the holder, and the locality where and the period during which such protected flora may be sold, and other conditions which the Minister may prescribe.

(3) A person contravening or failing to comply with any condition contained in a permit issued under Section (1) is guilty of an offence and liable, on conviction, to the penalties set out in Section 17.

(4) The holder of a permit shall furnish the Minister with a list stating the species, quantity and price of flora and name and address of a customer, whenever called upon to do so.

Cancellation of permits

11. The Minister may cancel any permit issued in terms of Section 6 (1), 7 (2) or 10 (1), if he has reason to suspect that the holder of such a permit does not comply with the conditions of such a permit.

Search for and registration of protected flora

12. (1) Any Police Officer, Customs Officer or a Public Officer authorised by the Minister in writing in that behalf may at any reasonable time enter upon any land for the purpose of searching for or inspecting any protected flora.

(2) Any Officer referred to in subsection (1), may enter upon any land, premises or vehicle for the purpose of arresting any person suspected on reasonable grounds of having committed an offence in respect of any protected flora and of seizing the protected flora in respect whereof of the offence in the opinion of such officer has been committed.

(3) Any owner or occupier of land where specially protected flora are cultivated shall, within six months from the commencement of this Act, register such flora in the form prescribed by the Minister in Schedule E of this Act.

(4) Any person who fails to comply with subsection (3) or who obstructs or hinders a Police Officer, Customs Officer or any Public Officer in terms of subsection (1) in the execution of the duties imposed on such officer under this section, is guilty of an offence and on conviction liable to the penalties set out in Section 17 of this Act.

Persons in possession of protected flora in reserve, botanic garden or specially protected habitat to give names and addresses

13. (1) If a person is found in possession of protected flora or plants within the boundaries of a flora reserve, botanic garden or special habitat, established under Section 3 (b) of this Act, the owner of such land or any person appointed in writing by him or any other officer referred to in Section 12 (1) of this Act, may call upon such a person to furnish his full name and address.

(2) Any person who when called upon under Subsection (1), to furnish his name and address, fails or refuses to do so, or furnishes a false or incorrect name and address, is guilty of an offence and liable on conviction to the penalties set out in Section 17 of this Act.

Presumption

14. A person who has or had custody of or who is or has been in possession of or who has handled, carried, conveyed any protected flora shall, if there is reasonable suspicion that such protected flora have been plucked, gathered, cut, uprooted or dug unlawfully, be deemed to have plucked, gathered, cut, uprooted or dug out such protected flora in contravention of this Act, unless the contrary is proved.

Collection for research or scientific purposes

15. Any person wishing to collect protected species of plants for research or scientific purposes shall apply for a permit from the Minister in the case of Swazi Nation Land or Title Deed Land and to the Swaziland National Trust Commission in the case of any areas protected under the Swaziland National Trust Commission Act No. 9 of 1972 and such person shall abide by the conditions set out in the issued permit.

Environmental impact assessment and mitigation plans

16. (1) Any organisation, public or private, or owner of land wishing to implement any activity that would impact in indigenous flora shall be required to assess indigenous flora that would be affected stating the location, total land area in square metres or square kilometres, or the distance in kilometres, the kinds of flora to be affected and their category in the schedule of protected flora and such organisation or owner shall ensure that proper mitigation measures are followed in accordance with the Swaziland Environmental Authority Act 1992.

(2) Any person who fails to comply with the provisions of subsection (1) hereof is guilty of an offence and liable on conviction to a fine of not less than two thousand five Hundred Emalangeni or a minimum prison term of three (3) months but not exceeding fifteen thousand Emalangeni or five (5) year prison term per hectare of land destroyed. In addition, the court may order that destroyed flora be replaced or compensated for.

Penalties

17. (1) Any person who contravenes the provisions of Section 7 or 8 or unlawfully cuts, picks, plucks, gathers, uproots, injures, breaks and process any flora in schedule A is guilty of an offence and on conviction liable to a fine of not less than six hundred Emalangeni and not more than two thousand five hundred Emalangeni or a term of imprisonment of not less than three months and not more than two years.

(2) Any person who contravenes the provisions of any other part of this Act, except Section 16, is guilty of an offence and if found guilty be liable to a fine not less than three hundred Emalangeni and not more than one thousand Emalangeni or a prison term of not less than one month and not more than one year.

(3) Any person who has previously been convicted for contravening any section of this Act shall, if convicted be sentenced to two years imprisonment at the second and subsequent convictions.

(4) In addition to such penalty the court may:-

- (a) order that any protected or indigenous flora in respect of which the offence was committed be forfeited to the Government;
- (b) cancel a permit issued to the person in terms of Section 6 (1), 7 (2), 10 (1);
- (c) order that a vehicle, object or animal used in the commission of an offence under the Act be forfeited to the Government and such object, or animal to be redeemed at 10% the total cost of the vehicle, object or animal used.

Exemption of Swazi rural dwellers

18. Nothing contained in this Act shall operate to restrain bonafide Swazi rural dwellers from collecting and processing plants outside flora reserves for their personal and domestic use and not for sale or delivery to any other person pursuant to any cause whatsoever.

Prohibition of sale of indigenous plants

19. (1) No person shall pick, pluck, cut, uproot or dig out any indigenous flora for the purpose of sale or offering for sale or for export or delivery with intent to export whole or parts of such flora without a permit from the Minister.

(2) Any driver and owner of a vehicle found loaded or transporting whole or parts of indigenous flora without a permit from the minister shall, unless the contrary is proven, shall be deemed to have done so in contravening of this Act and shall, if found guilty be liable to the penalties set out in Section 17.

Prohibition of cross boarder trade

20. No person shall, without the authority of the country of origin, carry or trade in any plant listed in the Red Data List of Southern African Plants (1997) or any other plant listed under the auspices of the International Union for the Conservation of Nature (IUCN).

Relation with Other Acts

21. This Act shall be read together with:-

- (a) the Swaziland Environmental Authority Act No. 15 of 1992;
- (b) the Forest Preservation Act No. 14 of 1910;
- (c) the Plant Protection Act No. 10 of 1959;
- (d) the Wild Mushroom Control Act No. 31 of 1973;
- (e) the Grass Fires Act No. 44 of 1955;
- (f) the Natural Reserves Act No. 71 of 1951;
- (g) the Game Act, 1953;
- (h) the Swaziland National Trust Commission Act No. 9 of 1972.

Supremacy of the Act

22. Whenever conflicts arise between this Act and any other legislation on matters pertaining to the flora, this Act shall assume supremacy over the other legislation.

Regulations

23. The Minister may make regulations for the better carrying out of the objects of this Act.

Repeal

24. The Flora Protection Act No. 45 of 1952 is hereby repealed.

SCHEDULE A

ESPECIALLY PROTECTED FLORA (ENDANGERED)

<u>SCIENTIFIC NAME</u>	<u>VERNACULAR NAME</u>
<i>Afzelia cuanzensis</i> Welw.	Umkholikholi
<i>Androstachys johnsonii</i> Prain	Bukhunkhu
<i>Bolusanthus speciosus</i> (H. bol) Harns	Umhhohlo
<i>Boophane disticha</i> Herb.	Incumbe / Siphahluka
<i>Cassipourea swaziensis</i> Compton	
<i>Ceratopteris comuta</i> (P. Beauv.) Lepr.	
<i>Didymochaena truncatula</i> (Swartz.) J. Sm	
<i>Disa intermedia</i> H. P. Linder	
<i>Encephalartos</i> spp Lehm.	Gebeleweni
<i>Eumophia swaziensis</i> Compton	
<i>Euphorbia clavigera</i> N. E. Br.	Sihlonhlwana
<i>Euphorbia keithii</i> R. A. Dyer	
<i>Gerbera jamesonii</i> Bol. Adlam	
<i>Gladiolus appendiculatus</i> G. J. Lewis	
<i>Hesperantha umbricola</i> Goldblatt	
<i>Hypoxis</i> spp	
<i>Kniphofia umbrina</i> Codd	Licaca latokoloshi
<i>Psilotum nudum</i> (L.) P. Beauv.	
<i>Pterocarpus angolensis</i> DC	Umvangati
<i>Selago swaziensis</i> Rolfe	
<i>Siphonochilus aethiopicus</i> (Schweinf.) B. L. Burt.	Sidvungula
<i>Stangeria eriopus</i> (Kunze) Baill.	
<i>Streptocarpus davyi</i> S. Moore	
<i>Syncolostemon comptonii</i> Codd	

SCHEDULE B

VULNERABLE FLORA

<u>SCIENTIFIC NAME</u>	<u>VERNACULAR NAME</u>
<i>Acacia xanthophloea</i> Benth.	Umkhanyakudze
<i>Adenium multiflorum</i> Klotzsh.	Sisila semphala
<i>Adenium swazicum</i> Stapf.	Sisila semphala
<i>Adiantum capillas-veneris</i> L.	
<i>Adiantum poiretti</i> Wiktr.	
<i>Agapanthus caulescens</i> Spreng.	Hlakahla
<i>Agapanthus inapertus</i> Beauv.	Hlakahla
<i>Agapanthus nutas</i> Leighton	Hlakahla
<i>Albizia adianthifolia</i> (Schumach.) W. F. Wight	Sivangatane
<i>Albizia anthelmintica</i> (A. Rich.) Brongn.	Sivangatane
<i>Albizia forbesii</i> Benth.	Sivangatane
<i>Albizia harveyi</i> Fourn	Inkhambane
<i>Albizia versicolor</i> Welw. Ex. Oliv.	Sivangatane
<i>Alepiea amatymbica</i> Eckl. & Zeyh.	Likhatsato

SCHEDULE B

VULNERABLE FLORA (cont.)

<u>SCIENTIFIC NAME</u>	<u>VERNACULAR NAME</u>
<i>Alepidea attenuata</i> Welm.	Likhatsato
<i>Alepidea gracillis</i> Duemmer.	Likhatsatwana
<i>Alepedia longifolia</i> E. May	Likhatsato
<i>Alepedia parva</i> Compton	Likhatsato
<i>Alepidea setifera</i> N. E. Br.	Likhatsatwana
<i>Aloe albida</i> (Stapf.) Reynolds	Inhlatjane
<i>Anomatheca gmadiflora</i> Bak.	
<i>Anomatheca laxa</i> (Thumb.) Goldblatt	
<i>Anselia gigantea</i> Reichb.	Liphakama
<i>Anthocleista grandiflora</i> Gilg.	Umhhobohhobo
<i>Aristea angolensis</i> Bak.	Phayimashimane
<i>Aristea cognata</i> N. E. Br.	Phayimashimane
<i>Aristea ecklonii</i> Bak.	Phayimashimane
<i>Aristea montana</i> Bak.	Phayimashimane
<i>Aretea woodii</i> N. E. Br.	Phayimashimane
<i>Atalaya alata</i> (Sim.) H. Forbes	
<i>Balanites maughanii</i> Sprague	Liphambo / Umnono
<i>Balanites pedicellaris</i> Mildbr & Schitr.	Liphambo / Umnono
<i>Berchemia zeyheri</i> (Sond.) Grubov.	Umneyi
<i>Bowiea volubilis</i> Harv ex Hook. f.	Gibizisila
<i>Breonardia microcephala</i> (Del.) Risdsd.	Umhlume
<i>Brunsvigia natalensis</i> Bak.	Lilula
<i>Brunsvigia radulosa</i> Herb	Lilula
<i>Caralluma gerstneri</i> Letty	Tililo lomncane
<i>Caralluma keithii</i> R. A. Dyer	Tililo lomncane
<i>Caralluma rogersii</i> E. A. Bruce & R. A. Dyer	Tililo lomncane
<i>Caralluma ubomboensis</i> Verdoorn	Tililo lomncane
<i>Chironia palustris</i> Burch	
<i>Clivia caulescens</i> R. A. Dyer	Hlakahla wemahlatsi
<i>Clivia miniata</i> Regel	Hlakahla wemahlatsi
<i>Combretum imberbe</i> Warwa	Phondotendlovu
<i>Crinum bulbispermum</i> (Burm. f.) Mille - Radh & Schwieck	
<i>Crinum graminicola</i> Verdoorn	
<i>Crinum macowanii</i> Bak.	
<i>Crinum paludosum</i> Verdoorn	
<i>Cyathea capensis</i> (L. f.) J. Sm.	Inkhomankhoma
<i>Cyathea dregei</i> Kunze	Inkhomankhoma
<i>Cyrtanthus bicolor</i> R. A. Dyer	Impimpiliza
<i>Cyrtanthus breviflorus</i> Harv.	Impimpiliza
<i>Cyrtanthus contractus</i> N. E. Br.	Impimpiliza
<i>Cyrtanthus galpinii</i> Bak.	Impimpiliza
<i>Cyrtanthus nutas</i> R. A. Dyer	Impimpiliza
<i>Cyrtanthus stimanthus</i> Bak.	Impimpiliza
<i>Cyrtanthus tuckii</i> Bak.	Impimpiliza
<i>Dianthus mooiensis</i> Williams	Tjanibezwe
<i>Dierama galpinii</i> N. E. Br.	Litsemu
<i>Dierama medium</i> N. E. Br.	Litsemu
<i>Dierama pictum</i> N. E. Br.	Litsemu

SCIENTIFIC NAMEVERNACULAR NAME

Dierama robustum N. E. Br.	Litsembu
Dierama trichorhisum N. E. Br.	Litsembu
Dietis flavida Oberm.	Phayimashimane
Dietis iridiodes (L.) Sweet ex Klatt	Phayimashimane
Dioscorea cotinifolia Kunth	Lunyawolwendlovu
Dioscorea dregeana (Kunth) Dur. & Schinz	Ndiyaza
Dioscorea quartiniana A. Rich	Lunyawolwendlovu
Dioscorea rupicola Kunth	Lunyawolwendlovu
Dioscorea sylvatica (Kunth) Eckl.	Lunyawolwendlovu
Duvalia polita N. E. Br.	Tililo lomncane
Ekebergia capensis Sparm.	Umnyamatsi
Entandrophragma caudatum (Sprague) Sprague	
Erica oatesii Rolfe	
Erica swaziensis	
Erythrophleum lasianthum Corbishley	Umhlahle
Faurea galpinii Phill.	Sicalaba
Faurea saligna Hav.	Sicalaba
Faurea speciosa (Welw.) Welw.	Sicalaba
Gerbera ambigua (Cass.) Sch. Bip	Mabophe
Gerbera galpinii Klatt	Mabophe
Gerbera krausii Sch. Bip.	Mabophe
Gerbera piloselloides (L.) Cass	Mabophe
Gerbera speciosa S. Moore	Mabophe
Gladiolus spp L. Sidwana	
Gonioma kamassi E. Mey.	
Haemanthus albiflos Jacq.	Licishamlilo
Haemanthus cameus Ker-Gawl	Licishamlilo
Harpephyllum caffrum Bernh.	Umgwenya
Haworthia limifolia Marloth.	Indvololwane
Huernia hystrix N. E. Br.	Tililo lomncane
Kniphofia galpinii Bak.	Licaca latokoloshi
Kniphofia linearifolia Bak.	Licaca lotokoloshi
Kniphofia multiflora Wood & Evans	Licaca latokoloshi
Kniphofia splendida E. A. Bruce	Licaca latokoloshi
Kniphofia tysonii Bak.	Licaca latokoloshi
Leucospermum gerrardii Stapf.	
Nerine rechmannii (Bak.) L. Bol.	
Olea europaea L.	Umncuma
Olea capensis L.	Umncuma
Olea woodiana Knobl.	Umncuma
Orchidaceae	
Pachypodium saundersii N. E. Br.	Sisila semphala
Podocarpus falcatus (Thunb.) R. Br.	Umsontsi
Podocarpus latifolius (Thunb.) R. Br.	Umsontsi
Protea caffra Meisn.	Sidlungu
Protea comptonii Beard	Sidlungu
Protea gaguedi J. F. Gmel.	Sidlungu
Protea parvula Beard	Sidlungu
Protea roupelliae Meisn.	Sidlungu
Protea simplex Phill.	Sidlungu
Ptaeroxylon obliquum (Thunb.) Radlk.	Umtsate
Riocreuxia burchellii K. Schum.	Umdzandzabuka wemahlatsi
Riocreuxia picta Schltr.	Umdzandzabuka wemahlatsi

VULNERABLE FLORA (cont.)

<u>SCIENTIFIC NAME</u>	<u>VERNACULAR NAME</u>
Schizostylis coccinea Backhouse & Harv.	
Scilla natalensis Planch.	Ndvwendvwendvwe
Spirostachys africana Sond.	Umtfombotsi
Stapelia gigantea N. E. Br. Tililo	
Strelitzia caudata R. A. Dyer	Inkhamango
Strophanthus gerrardii Stapf.	
Strophanthus speciosus (Ward & Harv.) Reber.	
Stultitia paradoxa I. Verd.	Tililo lomncane
Warburgia salutaris (Berto. f.) Chiov.	
Watsonia densiflora Bak.	Sidvwa
Watsonia latifolia Oberm.	Sidvwa
Watsonia meriana Mill.	Sidvwa
Watsonia watsonioides (Bak.) Oberm.	Sidvwana

SCHEDULE C

RARE FLORA

<u>SCIENTIFIC NAME</u>	<u>VERNACULAR NAME</u>
Aloe spp L.	Inhlaba
Boscia albintruca (Burch.) Gilg & Ben.	Ingwavuma lensikati
Cassya filiformis	
Ceratosicyos laevis (Thunb.) A. Meeuse	
Clematis brachiata Thunb	Litinyo lemamba
Clematis oweniae Harv.	Litinyo lemamba
Clerodendrum myricoides (Hochst.) Vatke	Luphehlacwatsi
Crocasmia aurea Planch	
Curtissia dentana (Burm. f.) C. A. Sm.	
Cussonia paniculata Eckl. & Zeyh.	Umsenge
Dias cotinifolia L.	Intfocwane
Dombeya rotundifolia (Hochst.) Planch.	Umwuwane
Draceana hookeana Planch.	
Drosera collinsiae N. E. Br. ex. Burt Davy	
Drosera madagascariensis DC	
Elaphoglossum acrostichoides (Hook & Grev.) Schelpe G	Ebeleweni
Empodium elongatum (Nel.) Burt	
Empodium plicatum (Thunb.) Garside	
Gardenia amoena Sins.	Umvalasangweni
Gleichenia polypodioides (L.) J. E. Sm.	
Harveya speciosa Bernh.	
Kigelia africana (Lam.) Benth.	Umvongotsi
Lineaire spp. Swartz	
Littonia modesta Hook.	
Lycopodium carolliniunum L.	
Lycopodium cernuum L.	
Lycopodium clavatum L.	

RARE FLORA (cont.)

SCIENTIFIC NAMEVERNACULAR NAME

Lycopodium gnidioides L. f	
Monadenium lugardae N. E. Br.	
Moraea spp.	
Mycogramma lycopodioides (L.) Copel	
Ocotea bulata (Burch.) Baill.	
Ocotea kenyensis (Chiov.) Robyns	
Oleandra distenta Kunze	
Ophioglossum reticulatum L.	
Perlagonium acraeum R. A. Dyer	
Pelargonium attenuata Harv.	
Pelargoniun transvaalensis Knuth	
Phylica paniculata Willd.	
Pleurotylia capensis (turex.) Oliv.	
Plumbago zeylanica L.	
Prunus africana (Hook. f.) Kalkm.	
Pterodiscus aurentiacus Welw	
Restio schonoides Kunth.	
Rhipsalis baccifera (J. Mill) W. T. Stearn	
Schizea pectinata (L.) Swartz	
Schefflera umbellifera (Sond.) Baill.	Umsengembuti
Sideroxylon inerme L.	
Terminalia phanerophlebia Engl. & Diels	Umhonono
Thunbergia natalensis Hook.	
Trichilia emetica Vahl.	Umkhuhlu
Vaccinium exul H. Bol.	
Vepris reflexa I. Verd.	

SCHEDULE D

**PERMIT FOR PROTECTED FLORA
(IN TERMS OF THE FLORA PROTECTION ACT, 2000)**

Permission is hereby granted to cut, pluck, sell, dig out, uproot, sell plants under the following conditions:-

Date:

Permit issued to:

(Name and address):

Plant species:

Quantity of plants:

Removed from:

Transplanted / sold at:

The validity of this permit expires on:

Distinguishing remarks:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

Authorising officer / representative:

Stamp

**FOR: MINISTER RESPONSIBLE FOR FLORA
PROTECTION**

SCHEDULE E

**FLORA PROTECTION REGISTRATION FORM
(IN TERMS OF THE FLORA PROTECTION ACT, 2000)**

Name of owner:

Address:

Physical location of nursery or area where flora is cultivated:

.....
.....**PROTECTED FLORA CULTIVATED:****Name of Species****Number of Plants**

- | | |
|----------|-------|
| 1. .... | ..... |
| 2. .... | ..... |
| 3. .... | ..... |
| 4. .... | ..... |
| 5. .... | ..... |
| 6. .... | ..... |
| 7. .... | ..... |
| 8. .... | ..... |
| 9. .... | ..... |
| 10. .... | ..... |
| 11. .... | ..... |
| 12. .... | ..... |
| 13. .... | ..... |
| 14. .... | ..... |
| 15. .... | ..... |

Date:

Signature:

