

SWAZILAND GOVERNMENT GAZETTE

VOL. XLIII]

MBABANE, Friday, JUNE 3rd 2005

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PUBLISHED BY AUTHORITY

GENERAL NOTICE NO. 31 OF 2005

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 authorizes:-

ALBERT JOBE SUTHA LUKHELE

a resident of kaPhunga Royal Kraal in the Shiselweni region to assume the surname **MATHABELA**.

S. D. MASILELA
Acting Principal Secretary

Mbabane
19 May 2005

GENERAL NOTICE NO. 32 OF 2005

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 authorizes:-

MEVANE MPHETSAMBALO MAMBA

a resident of Emkhuzweni Royal Kraal in the Hhohho region to assume the surname **GININDZA**.

S. D. MASILELA
Acting Principal Secretary

Mbabane
19 May 2005

GENERAL NOTICE NO. 33 OF 2005

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 authorizes:-

JOMO BHEKITHEMBA MABUZA

a resident of Manzini in the Manzini region to assume the surname **JONES**.

S. D. MASILELA
Acting Principal Secretary

Mbabane
19 May 2005

GENERAL NOTICE NO. 34 OF 2005

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 authorizes:-

MUSA SAMUEL FAKUDZE

a resident of Ngcoseni Royal Kraal in the Manzini region to assume the surname **PHIRI**.

S. D. MASILELA
Acting Principal Secretary

Mbabane
19 May 2005

GENERAL NOTICE NO. 35 OF 2005

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 authorizes:-

DOCTOR MICHAEL NTSINI

a resident of Emvembili Royal Kraal in the Hhohho region to assume the surname **PHIRI**.

S. D. MASILELA
Acting Principal Secretary

Mbabane
19 May 2005

NOTICE

Notice is hereby given that I, John Zosho Nkosi of Masibini - Shiselweni Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mokoena after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers 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 Mokoena is because it is my natural surname.

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

P.O. Box 29
Nhlangano

G483 4x03-06-2005

NOTICE

Notice is hereby given that I, Lawrence Alistair Hermansson of Manzini Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Williams after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Manzini Region and in the government Gazette.

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

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

MR L. A. HERMANSSON
P.O. Box 734
Matsapha M202
Swaziland

G522 4x10-06-2005

NOTICE

ESTATE LATE: DANIEL SIPHO MAFAYA ESTATE NO. EM63/2005

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.

EMMA NTOMBI MAFAYA (EXECUTRIX)
c/o Masina Mazibuko & Co.
Office No. 10 Presidents Place
Meintjies Street, Manzini

G597 03-06-2005

NOTICE

Notice is hereby given that I, Ernest Manyangeni Khumalo of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Msimango after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers 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 Msimango is because it is my natural surname.

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

P.O. Box 1496
Mbabane

G558 4x17-06-2005

NOTICE

Notice is hereby given that I, Vusi Hlatshwayo of Manzini Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mbhokazi after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Manzini Region and in the government Gazette.

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

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

P.O. Box 413
Siteki

G584 4x17-06-2005

NOTICE

ESTATE LATE: SALATHIEL SIBONANGAYE THWALA ESTATE NO. EM142/2005

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.

NOMVUYO VICTORIA THWALA NEE GONYA
& SIBONGILE THEMBI THWALA NEE MKHWANAZI
P.O. Box 4216
Manzini

G599 03-06-2005

NOTICE

Notice is hereby given that we intend applying for the cancellation of an entry in the Deeds Office Register relating to the following Mortgage Bond, namely; **Mortgage Bond No. 68/1999** dated the 10th February, 1999 for the sum of E35,000.00 (Thirty Five Thousand Emalangeni); Passed by **Peter Nhlanhla Dlamini** (born on the 21st December, 1938), in favour of **SWAZILAND BUILDING SOCIETY**.

Any person having an objection to the cancellation of such an entry in the Deeds Office Register 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 20TH DAY OF MAY, 2005.

M. J. MANZINI & ASSOCIATES
Attorneys for Applicant
3rd Floor, Lilunga House
P. O. Box A204
Swazi Plaza
Mbabane

G574 2x03-06-2005

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 192/1992, dated the 4th May, 1992, made in favour of: **WELLINGTON THAMSANQA MKHOMBE** (Born on the 1st day of January, 1961) I. D. No. 7614-02-8429205 in respect of the undermentioned property:

CERTAIN : Lot No. 156 situate in Siteki Township, District of Lubombo, Swaziland;

MEASURING : 460 (Four Six Zero) 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, Mbabane, within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 24TH DAY OF MAY, 2005.

M. J. MANZINI & ASSOCIATES
Attorneys for Applicant
3rd Floor, Lilunga House
P. O. Box A204
Swazi Plaza
Mbabane

G575 2x03-06-2005

NOTICE

ESTATE LATE: DOUGLAS MBOYI MAKHOSINI NXUMALO ESTATE NO. EM159/2005

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.

WELILE P. NXUMALO NEE ZWANE
P.O. Box 5883
Manzini

G600 03-06-2005

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 338/1973, dated the 17th day of December, 1973, made in favour of: **NKOMNOPHONDO DANIEL KHUMALO** (Born on the 20th day of July, 1919) in respect of the undermentioned property:

CERTAIN : Portion 19 of the Farm No. 94, situate in the District of Lubombo, Swaziland;

MEASURING : 3242 (Three Two Four Two) 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, Mbabane, within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 24TH DAY OF MAY, 2005.

M. J. MANZINI & ASSOCIATES
Attorneys for Applicant
3rd Floor, Lilunga House
P. O. Box A204
Swazi Plaza
Mbabane

G576 2x03-06-2005

NOTICE

Notice is hereby given that we intend applying for a certified copy of: Deed of Transfer No. 84/1987 dated the 20th day of February, 1987 in favour of **JOEL MUSA NHLEKO** (Born on the 2nd February, 1948) in respect of :-

CERTAIN : Lot No. 138, situate in Mvundlela Avenue in the Sidvashini Township, Mbabane urban area of Mbabane, District of Hhohho, Swaziland;

MEASURING : 409 (Four Zero Nine) Square Metres.

Any person having objection 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 24TH DAY OF MAY, 2005.

ROBINSON BERTRAM
Attorneys for Applicant
Ingcongwane Building
Gwamile Street
P.O. Box 24
Mbabane

G589 2x03-06-2005

NOTICE

Notice is hereby given that I, Sonny Boy Nyoni of Lubombo Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Zondo after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Lubombo Region and in the government Gazette.

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

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

P.O. Box 6
Lomahasha

G588 4x17-06-2005

NOTICE

Notice is hereby given that I, Esau Mgiyane Dlamini of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mashaba after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers 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 Mashaba is because it is my natural surname.

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

P.O. Box 98
Ntfonjeni

G598 4x24-06-2005

NOTICE

ESTATE LATE: MGCUMEKA DAVID DLAMINI ESTATE NO. EM74/2005

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.

MARY THOKO DLAMINI
P.O. Box 295
Matsapha

G602 03-06-2005

NOTICE

Notice is hereby given that I, Vusie Fred Dlamini of Manzini Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mkhathshwa after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for the Manzini Region and in the government Gazette.

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

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

P.O. Box 7478
Manzini

G619 4x24-06-2005

NOTICE

ESTATE LATE: MFANA MANTSHWEDLANA MANANA ESTATE NO. ES60/2005

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.

MUZI ELLIOT MANANA
P.O. Box 5753
Manzini

G603 03-06-2005

NOTICE

ESTATE LATE: ZEBLON KHEYI KUNENE ESTATE NO. EM73/2005

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.

RUTH MSESI KUNENE
P.O. Box 33
Mankayane

G604 03-06-2005

NOTICE

ESTATE LATE: JOSIAH MADIBHANE LUKHELE ESTATE NO. EL179/2004

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.

EMMELINAH LUKHELE
P.O. Box 156
Siteki

G606 03-06-2005

NOTICE

ESTATE LATE: BRIAN VELI NXUMALO ESTATE NO. EM411/2004

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.

MARTHA ZANELE ZIKALALA
P.O. Box 376
Mbabane

G608 03-06-2005

NOTICE

ESTATE LATE: DUMSILE DLAMINI NEE VILAKATI ESTATE NO. EM69/2005

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.

ABRAHAM DLAMINI
P.O. Box 1968
Matsapha

G609 03-06-2005

NOTICE

ESTATE LATE: SAMSON MGIDLA DLAMINI ESTATE NO. ES1/2005

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.

THANDOKUHLE DLAMINI
P.O. Box 442
Manzini

G610 03-06-2005

NOTICE

ESTATE LATE: BENEDICT HLATSHWAKO ESTATE NO. EM565/2004

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.

SINDISIWE HLATSHWAKO
P.O. Box 219
Malkerns

G611 03-06-2005

NOTICE

ESTATE LATE: MOSES MALASHI BHEMBE ESTATE NO. ES78/2005

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 BHEMBE
P.O. Box 65
Nhlangano

G613 03-06-2005

NOTICE

ESTATE LATE: NHLANHLA ELIAS NGWENYA ESTATE NO. EP16/2005

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.

HAPPY NGWENYA
P.O. Box 18
Mayiwane

G616 03-06-2005

NOTICE

ESTATE LATE: CELMUSA HEARTNELL SIKHULU MCHUNU ESTATE NO. EH81/2005

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.

ADELAIDE MENABA
P.O. Box 369
Mbabane

G617 03-06-2005

NOTICE

ESTATE LATE: MPHUKEZI JEREMIAH SIMELANE ESTATE NO. EM162/2005

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.

CIMETILE SARAFINA SIMELANE NEE SHONGWE
P.O. Box 3235
Manzini

G622 03-06-2005

NOTICE

ESTATE LATE: PETROS MPHIKELELI MNDawe ESTATE NO. EM14/2005

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.

BETTY NOMSA SIKHOSANA
P.O. Box 3676
Manzini

G624 03-06-2005

NOTICE

ESTATE LATE: HAPSON SIDLAKANJANI DLAMINI ESTATE NO. ES138/2005

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.

VUSI STANLEY DLAMINI
P.O. Box 3488
Mbabane

G627 03-06-2005

NOTICE

ESTATE LATE: LUCY SIMELANE NEE MAVIMBELA ESTATE NO. EM150/2005

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.

TREVOR SIMELANE
P.O. Box 699
Manzini

G631 03-06-2005

NOTICE

ESTATE LATE: PAULINE NOMVULA KHANYILE ESTATE NO. EH40/2005

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.

ISAAC KHANYILE
P.O. Box 5816
Manzini

G632 03-06-2005

NOTICE

ESTATE LATE: KHETSANI MARIAH KHUMALO ESTATE NO. EM154/2005

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 KHUMALO
P.O. Box 2344
Mbabane

G633 03-06-2005

NOTICE

**ESTATE LATE: SIBONGILE LINAH MATFONSI NEE HLATSHWAYO
ESTATE NO. EP22/2005**

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

GEZEPHI HLATSHWAYO
P.O. Box 69
Tshaneni

G601 03-06-2005

NOTICE

ESTATE LATE: MANGALISO WILSON SIBANDZE ESTATE NO. EH289/2002

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

LONKHULULEKO SIBANDZE
P.O. Box 1989
Mbabane
Swaziland

G605 03-06-2005

NOTICE

ESTATE LATE: DOREEN NTOMBIZONKE THWALA ESTATE NO. EL208/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MR WISEMAN THWALA
P.O. Box 1965
Manzini

G607 03-06-2005

NOTICE

ESTATE LATE: ROBERT SIDUMO ZWANE ESTATE NO. EM531/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

VELEPHI ZWANE
P.O. Box 5753
Manzini

G612 03-06-2005

NOTICE

ESTATE LATE: ZAKHELE VASCO SIBANDZE ESTATE NO. EH291/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

RONEY SAMKELISO SIBANDZE
P.O. Box 102
Ntfontjeni

G614 03-06-2005

NOTICE

ESTATE LATE: SAMSON NGOMBA SIBANYONI ESTATE NO. EM84/2005

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

THULI DLAMINI
P.O. Box 115
Malkerns

G639 03-06-2005

NOTICE

ESTATE LATE: THABSILE DORCAS NKAMBULE ESTATE NO. EM65/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MAKHOSAZANA PERTUNIA KUNENE
P.O. Box 1040
Mbabane

G615 03-06-2005

NOTICE

ESTATE LATE: BONGINKOSI BONGANI GAMA ESTATE NO. EM343/04

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

CAIPHUS MPINI GAMA
P.O. Box 43
Hlathikhulu

G618 03-06-2005

NOTICE

ESTATE LATE: CELANI MAHLALELA ESTATE NO. EL103/200

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MR MPHATFWA MAHLALELA
P.O. Box 6
Lomahasha

G620 03-06-2005

NOTICE

ESTATE LATE: BHULIPHANGO NGUVANE DLAMINI ESTATE NO. EH147/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MR HLATSI DLAMINI
P.O. Box 16
Luve

G621 03-06-2005

NOTICE

ESTATE LATE: DAVID SABELO MASANGANE ESTATE NO. EM93/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

BHEKI MASANGANE
P.O. Box 1
Mhlume

G623 03-06-2005

NOTICE

ESTATE LATE: SAMSON LUBESHU DLAMINI ESTATE NO. EP109/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

HLOBSILE DLAMINI
P.O. Box 30
Ntfontjeni

G625 03-06-2005

NOTICE

ESTATE LATE: ALBERT MSUTFU NKAMBULE ESTATE NO. EH445/95

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MRS ESTHER FUNANI NKAMBULE
P.O. Box 162
Eveni

G626 03-06-2005

NOTICE

ESTATE LATE: JOHANNES WAWELA MYENI ESTATE NO. EL203/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

JOSEPHINE HLALELENI MYENI
P.O. Box 213
Siteki

G628 03-06-2005

NOTICE

ESTATE LATE: ENOCK SIMEON KUNENE ESTATE NO. EH187/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

ELLENOR KUNENE
P.O. Box 1626
Mbabane

G629 03-06-2005

NOTICE

ESTATE LATE: MANDLA CYRIL MANYATSI ESTATE NO. EM23/2005

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

ZODWA MARY MANYATSI
P.O. Box 6396
Manzini

G630 03-06-2005

NOTICE

ESTATE LATE: DANIEL NDWANDWE ESTATE NO. EP102/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

MR J. VUSI NXUMALO
P.O. Box 343
Piggs Peak

G634 03-06-2005

NOTICE

ESTATE LATE: BETTY M. MOTSA ESTATE NO. EM552/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

ZODWA NDWANDWE
P.O. Box 5681
Manzini

G635 03-06-2005

NOTICE

ESTATE LATE: NDABILE PHILLEMONT NDZABANDZABA ESTATE NO. ES285/2004

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

NESTER SIBONGILE NDZABANDZABA
P.O. Box 141
Sihluthse

G637 03-06-2005

NOTICE

ESTATE LATE: PHINEAS DLAMINI ESTATE NO. EH283/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

ELMON DLAMINI
P.O. Box 1
Simunye

G638 03-06-2005

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 3043/2001

In the matter between:

SWAZILAND BUILDING SOCIETY

Plaintiff

and

EMANGWENI PROPERTIES (PTY) LTD

Defendant

NOTICE OF SALE

Notice is hereby given that pursuant to a Writ of Execution issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff for the District of Manzini outside the Regional Administrator's Building, Manzini, District of Manzini at **2:30 p.m. on Friday the 24th June 2005.**

CERTAIN : Lot No. 117 situate in the Manzini Extension No. 1 Township, District of Manzini, Swaziland;

MEASURING : 465 (Four Six Five) Square Metres;

HELD : Under Deed of Transfer No. 542/1988 dated this day subject to the terms and conditions contained therein;

RESERVE PRICE : E185 000.00

The Conditions of Sale are available for inspection at the office of the Sheriff in the High Court Building in Mbabane.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE THIS 25TH DAY OF MAY 2005.

MR SHIYUMHLABA DLAMINI
Acting Sheriff of Swaziland
c/o The Registrar of the High Court
Mbabane

G596 03-06-2005

NOTICE

ESTATE LATE: JABU VICTORIA FLORENCE NDWANDWE ESTATE NO. ES44/2005

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.

SABELO THWALA
P.O. Box 930
Nhlangano

G640 03-06-2005

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 480/2005

In the matter between:

SWAZILAND BUILDING SOCIETY

Plaintiff

and

VUSI MAKEPEACE 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 Administrator's Building, Manzini, District of Manzini at **2:30 p.m.** on **Friday the 1st July 2005.**

CERTAIN : Lot No. 591 situate in Nxumalo Street in Zakhele Township Extension No. 1, Manzini District, Swaziland;
MEASURING : 464 (Four Six Four) Square Metres;
RESERVE PRICE : E220 000.00 (Two Hundred and Twenty Thousand Emalangeni);
HELD : Under Deed of Transfer No. 243/2004 dated this day, subject to the terms and conditions contained therein;

The Conditions of Sale are available for inspection at the office of the Sheriff in the High Court Building and at the offices of Regional Administrator, Manzini.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE THIS 25TH DAY OF MAY 2005.

MR SHIYUMHLABA DLAMINI
Acting Sheriff of Swaziland
c/o The Registrar of the High Court
Mbabane

G636 03-06-2005

NOTICE

ESTATE LATE: BADELI LUCIA SIMELANE NEE VILAKATI ESTATE NO. EH13/2005

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.

DAVID MPHIKELELI SIMELANE
P.O. Box 560
Hlatikhulu

G643 03-06-2005

NOTICE

ESTATE LATE: SIBONGILE EVELYN MKHONTA ESTATE NO. ES65/2002

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

PHINDILE MKHONTA
P.O. Box 351
Nhlangano

G642 03-06-2005

NOTICE

ESTATE LATE: BIG BOY DOMINIC DLAMINI ESTATE NO. EH26/2002

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

ANGELINE DLAMINI
P.O. Box 546
Mbabane

G644 03-06-2005

NOTICE

ESTATE LATE: ENOCK JOSHUA FAKUDZE ESTATE NO. EH44/2005

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

JEFFREY FAKUDZE
P.O. Box 2771
Mbabane

G645 03-06-2005

NOTICE

Notice is hereby given that I, Sihle Msibi of Shiselweni 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 four consecutive weeks in the Times of Swaziland and The Swazi Observer being the newspapers 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 Mlambo is because it 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 Shiselweni Region.

P.O. Box 3310
Mbabane

G641 4x24-06-2005

NOTICE

ESTATE LATE: MINAH LUKHELE ESTATE NO. ES39/2003

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 and Distribution Account will lie open for inspection at the office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

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

THOKO MAGAGULA NEE LUKHELE
P.O. Box 48
Mliba

G647 03-06-2005

NOTICE

ESTATE LATE: JULIE ZACHARIA MAVUSO ESTATE NO. EM562/2004

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.

HEZEKIEL MUZI MAVUSO
P.O. Box 5369
Mbabane

G646 03-06-2005

NOTICE

Swaziland BUILDING SOCIETY

NOTICE OF MEETING

Notice is hereby given that the forty third Annual General Meeting of Shareholders will be held in the Boardroom, SBS House, Mdada Street, Mbabane on the 30th June 2005 at 9 a.m.

BUSINESS TO BE TRANSACTED

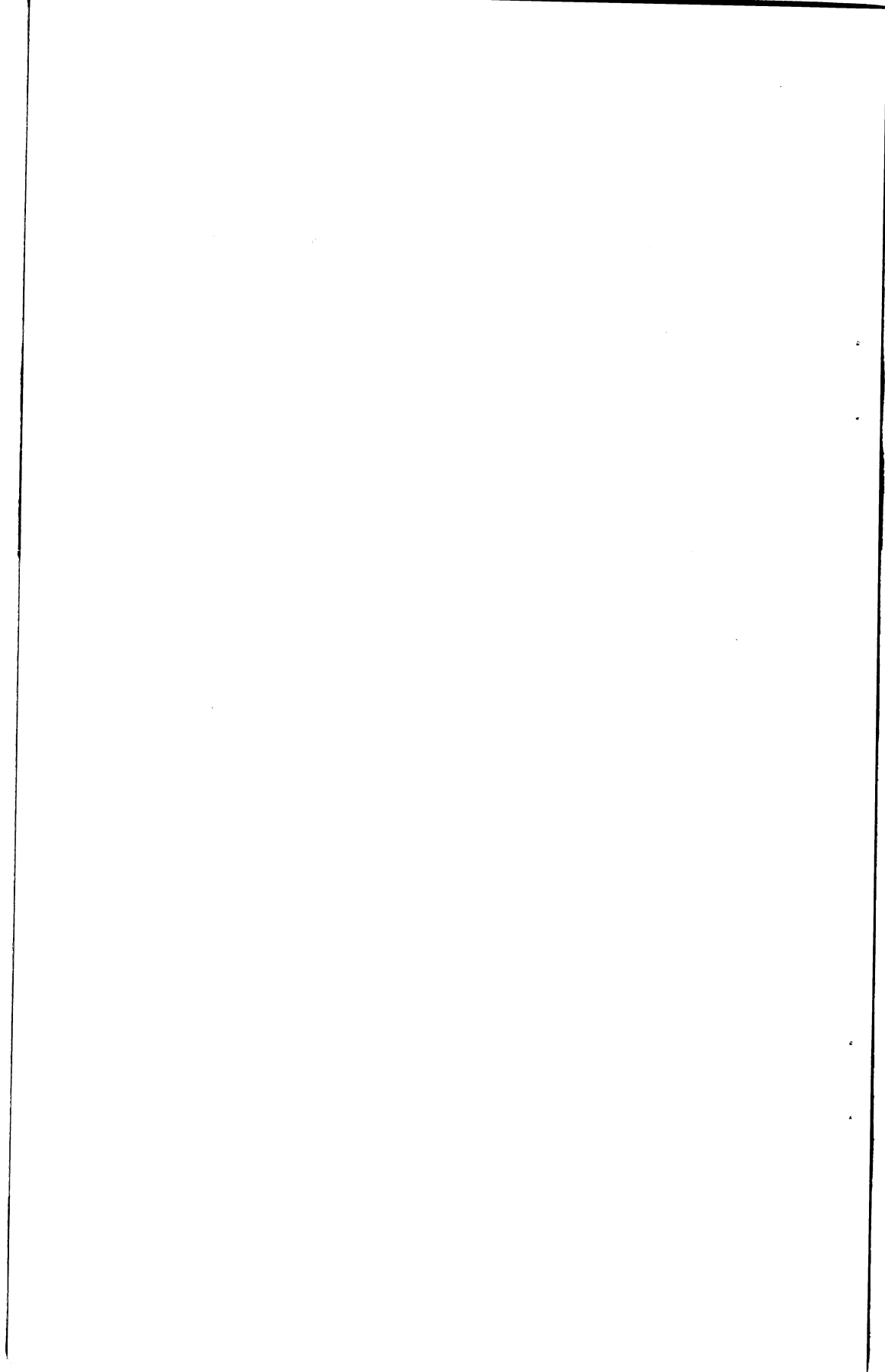
1. To consider and adopt the Report of the Directors, Accounts and Report of the Auditors for the year ended 31st March 2005.
2. To elect Directors. Messrs M. D. Fakudze, R. J. Cloete, K. M. Mbuli and J. V. Ndlangamandla retire in terms of Rule 80 of the Society but, being eligible offer themselves for re-election.
3. To fix remuneration for the past year's audit and to appoint auditors for the ensuing year. Messrs Ernst & Young being eligible, offer themselves for re-appointment.
4. To transact any other business within the scope of the meeting.

BY ORDER OF THE BOARD.

Z. M. ZULU
Secretary

SBS House
Mbabane
8 June 2005

G648 03-06-2005



SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XLIII]

MBABANE, Friday, JUNE 3rd., 2005

[No. 056

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PUBLISHED BY AUTHORITY

PART A

S1

THE SWAZILAND ELECTRICITY COMPANY BILL, 2005 (Bill No. 4 of 2005)

(To be presented by the Minister for Natural Resources and Energy)

MEMORANDUM OF REASONS

- (a) The objective of this Bill is to provide for the establishment of the Swaziland Electricity Company as a company under the Companies Act. For the exercise and performance by that Company of the powers and functions presently performed by the Swaziland Electricity Board relating to the generation, transmission, distribution and supply of electricity.
- (b) The Bill provides for the transfer of the assets and liabilities, rights and obligations from the Swaziland Electricity Board to the Company.
- (c) The Bill provides for the transfer of personnel from the Swaziland Electricity Board to the Company.
- (d) The Bill provides for decisions on the shareholding in the Company and also provides for the dissolution of the Swaziland Electricity Board; and for matters associated therewith.

P. M. DLAMINI
ATTORNEY GENERAL

A BILL entitled

An Act to provide for the establishment of the Swaziland Electricity Company as a company under the Companies Act and performance by that Company of the powers and functions presently performed by the Swaziland Electricity Board relating to the generation, transmission, distribution and supply of electricity.

ENACTED by the King and Parliament of Swaziland

Arrangement of Sections

Section

1. Short title and commencement
2. Definitions
3. Incorporatisation/Constitution and Objectives of the Company.
4. Share Capital
5. Board of Directors
6. Assembly of Shareholders with Government as sole Shareholder

7. Transfer of assets, rights, obligations and liabilities from SEB
8. Transfer of Employees
9. Pension Funds
10. Issuing of Licenses by the Energy Regulatory Authority
11. Selling of Shares in the Company
12. Auditing
13. Payment of Taxes
14. Taking on debt
15. General
16. Winding down of SEB

Short title and commencement

1. This Act may be cited as the Swaziland Electricity Company Act, 2005 and it shall come into force on a date to be published by the Minister in the gazette.

Definitions

2. In this Act, unless the context otherwise indicates "company" means the company established under section 3;

"Companies Act" means the Companies Act, 1912 (Act No. 7 of 1912);

"Minister" means the Minister responsible for energy affairs in the Kingdom of Swaziland;

"Ministry" means the Ministry responsible for energy affairs in the Kingdom of Swaziland;

"Public Enterprise Unit" means the Unit established under section 3 of The Public Enterprises (Control and Monitoring) Act 1989 (Act No. 8 of 1989);

"registrar" means the Registrar of Companies appointed under the Companies Act;

"Rural Access Fund" means a fund established to provide for rural energisation, both grid and off-grid;

"SEB" means the Swaziland Electricity Board established under section 3 of the Electricity Act, 1963 (Act No. 10 of 1963).

Incorporation/Constitution and Objectives of the Company.

3. (1) The Minister shall request the registrar to incorporate in terms of the Companies Act a company to be known as the Swaziland Electricity Company.

(2) The request shall be accompanied by the memorandum and the articles of association of the company, signed by the Minister and approved by the Minister of Finance.

(3) The company shall take over the assets and liabilities, rights and obligations of the Swaziland Electricity Board.

(4) The objects of the company as contained in the memorandum of association shall include -

- (a) the generation, transmission, distribution and supply of electricity;
- (b) the import and export of electricity into and from the Kingdom of Swaziland;
- (c) to meet the objectives of the Government of Swaziland in the generation, transmission, distribution and supply of electricity.

(5) The Kingdom of Swaziland shall, notwithstanding the provisions of the Companies Act on incorporation, be the sole shareholder of the shares in the company and the rights attached thereto shall be exercised by the Minister.

(6) The signed memorandum and articles shall, notwithstanding the provisions of the Companies Act, comply with the requirements of that Act for the registration thereof.

(7) (a) On receipt of the said request and the memorandum and articles of

(b) association thus signed and approved, the registrar shall register the memorandum and articles as required under the Companies Act, and thereupon issue a certificate that the Company is thus incorporated.

(c) No fee shall be payable in respect of the incorporation of the company.

Share Capital

4 (1) The initial share capital of the company shall consist of the number of shares with the value set out in the memorandum and articles of association.

(2) The value of the shares shall be fixed based on a due diligence review and valuation of the company by an internationally recognized registered firm of Accountants to determine its networth and fix the value of the shares of the company.

(a) The outcome of the due diligence review and of the valuation exercise shall be presented by the Minister to Parliament for information before the Minister submits his request for incorporation of the company to the registrar.

(3) No money, fee or stamp duty shall be payable in respect of shares held by the Kingdom of Swaziland on incorporation of the company;

Board of Directors

5. (1) The first board of directors on incorporation of the company shall be the board of the SEB.

(2) The first Board shall serve until the first annual general meeting of the company, whereupon the provisions of the Companies Act and the articles and memorandum of association shall apply.

(3) Appointment of the Board.

(a) The Board shall have a minimum of five and a maximum of nine members, including the Executive Director.

- (b) The Minister shall appoint the Board members that are to be appointed by the Government according to shares held.
- (c) Board members shall serve for a term of two years, which is renewable
- (d) As long as the Government is sole shareholder, the Minister can at any time subject to approval by the Scope replace a Board Member appointed by the Government.
- (e) The Executive Director is appointed by the Board

(4) The Chairman and the Deputy Chairman are obliged to inform the Minister of any issues of substantial importance.

(5) Board members are subject to the rule for individual responsibility established by the Company's Act, for the casting of votes at Board meetings.

Assembly of Shareholders with Government as sole Shareholder

6. (1) As long as the Government is sole shareholder, the Minister performs the functions and exercises the responsibilities assigned to the Assembly of Shareholders by the Company Act about management of a company, payment of damages and annual accounts.

(2) The Minister shall hold the Annual Assembly of Shareholders in a joint session with the members of the Board.

Transfer of assets, rights, obligations and liabilities from SEB

7. (1) All assets, property, funds, rights, duties, obligations and liabilities which on the date of commencement of this Act were vested in acquired, incurred or entered into by SEB shall on that date pass by succession without further assurance to the company which shall have all the powers to realise such assets and discharge any liabilities of SEB and shall become enforceable by or against the company to the same extent as they were enforceable by or against SEB.

(2) All mortgages, shares, deeds, charges, agreements, servitude's, contracts, loans, stocks, bonds and other instruments, works in progress and all working arrangements subsisting immediately before the date of commencement of this Act shall be of as full force and effect against or in favour of, as the case may be, the company, and enforceable as fully and effectually as if instead of SEB, the company had been named therein and had been party thereto.

(3) Any proceedings or cause of action pending or existing immediately before the date of commencement of this Act by or against the company may be continued or enforced by or against the company as it might have been by or against SEB if this Act had not been passed.

(4) In respect of any immovable property or any right or obligation under a mortgage pledge bond or charge vested in or transferred to or imposed upon the company under this Section and which by law is required to be registered, a registrar as contemplated in the Deeds Registries Act shall, upon submission to him or her by the chief executive officer of the SEB –

- (i) that a real right in respect of immovable property has been transferred to the company in terms of subsection (1);
- (ii) of a list of properties or rights owned by SEB, or owned by the Kingdom of Swaziland and exclusively used by SEB.

make such entries or endorsements as are necessary in any register or document to effect registration of such property or right in the name of the company, and no stamp duty, office fee or other monies shall be payable in respect thereof.

(5) All documents and records of SEB are to be transferred to the Company.

(6) Claims raised on implicit assets or liabilities that might come to light during or after incorporation, and which are not registered in the Deeds registry, shall be referred to a review committee composed of the PS of the Ministry of Finance, the PS of the Ministry, and the Head of the Public Enterprise Unit before being settled or taken to court.

Transfer of Employees

8. (1) As from the date of commencement of this Act all appointments of officers, employees and staff of SEB made prior to the said date of commencement and subsisting at that date shall be deemed to have been made in accordance with this Act and such officers employees and staff shall be deemed to be in the service of the company.

(2) Every officer, employee or staff member of SEB at the commencement of this Act aforesaid shall be deemed to have been transferred to the employment of the company under his existing terms and conditions of service and for the purpose of determining his rights thereunder his service shall be regarded as being continuous from the time he was appointed by SEB.

(3) No officer, employee or staff member of SEB shall be entitled to receive any other compensation or benefits by reason only of being deemed to be transferred to SEC if such compensation or benefit would not be due and/or payable had this Act not come into force.

Pension Funds

9 (1) The Company shall assume all the rights and obligations of the SEB towards all pension funds, provident fund or other fund created or funded by the SEB for the retirement of employees.

(2) Any employee transferred to the company under this Act who was a member of that fund, shall continue to be a member of that fund and the fund shall continue to exist.

(3) Any over- or under-funding of the Fund shall be assessed by the due diligence and valuation exercise and be taken into account in the assessment of the value of the share capital of the company.

Issuing of Licenses by the Energy Regulatory Authority

10. (1) The Energy Regulatory Authority to be established under the Energy Regulatory Authority Act shall provide the company with the licenses required to fulfil its functions defined in this Act.

(2) The company shall comply with all reporting and accounting requirements fixed by the Energy Regulatory Authority in licenses or in its published bylaws.

Selling of Shares in the Company

11. (1) The selling of shares in the company shall be subject to prior approval and authorization by Parliament.

(2) The approval by Parliament of the plan for the selling of shares is conditional on the presentation by the Minister to Parliament of a full or partial privatisation plan discussed and agreed with the Minister of Finance and the Director of the Public Enterprise Unit.

(3) The privatisation plan shall cover as a minimum:

- (a) the strategic objective of the partial or full privatisation and how it fits into the energy policy of the Government;
- (b) reasons for the form chosen to sell shares – open bidding or negotiated sale;
- (c) in case of negotiated deals, how the sales price is to be maximized, or maximum expansion targets are to be reached at least cost to Swazi society;
- (d) employment impact and redundancy plans;
- (e) use of sales revenue and its placement – whether expansion of the capital of the company, transfer to the Rural Access Fund; or transfer to the treasury;
- (f) implications for the pension fund
- (g) the comments made by the Energy Regulatory Authority on the plan.

Auditing

12 The company shall be subject to auditing by a registered and internationally recognized firm of Accountants.

Payment of Taxes

13. (1) From the day of incorporation the company shall be liable to payment of company taxes.

Taking on debt

14. (1) As long as the Kingdom of Swaziland is sole shareholder of the company, the Minister of Finance in consultation with the Minister shall fix a limit on the maximum debt to be incurred by the company.

(2) As long as the Government is sole shareholder of the company, the terms and conditions of major loans taken by the company are subject to the joint approval by the Minister of Finance and by the Minister.

General

15. (1) Any reference in any legislation to the SEB shall be deemed to be a reference to the company: Provided that such reference shall only be effective from the date that the company assumes the rights and obligations of the SEB as provided for in this Act.

(2) The directors of the company shall, as soon as possible after its incorporation, and while the Kingdom of Swaziland is the sole shareholder, reach an agreement with the Minister, setting out –

- (a) relationship between the Kingdom of Swaziland and the company, including the social objectives to be met by the company, its powers, duties and functions of the company, and dividends (if any) to be paid to the Kingdom of Swaziland;
- (b) proposed dates on which –
 - (i) company will start operating;

(ii) the transfer of assets, liabilities, rights and obligations will take place;

(iii) the transfer of personnel will take effect;

(iv) the SEB will cease all activities.

(3) The agreement contemplated in subsection (2) may be amended from time to time.

Winding down of SEB

16. (1) The SEB shall cease to exist as a legal person from the date determined by the Minister in the Gazette.

(2) The Minister shall only determine a date in terms of subsection (1) if he or she is satisfied –

(a) that the company has taken over all the rights, liabilities and obligations of the SEB;

(b) that there are no outstanding issues that necessitates the legal standing of the SEB to be maintained.

(3) Nobody shall have or may institute any claim of any nature against the SEB from the date determined under subsection (1).

THE ENERGY REGULATORY AUTHORITY BILL, 2005
(Bill No. 5 of 2005)

(To be presented by the Minister for Natural Resources and Energy)

MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to establish an Energy Regulatory Authority.

P. M. DLAMINI
ATTORNEY GENERAL

A BILL
entitled

An Act to establish an Energy Regulatory Authority.

ENACTED by the King and Parliament of Swaziland.

Arrangement of Sections

PART I:

PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II:

ENERGY REGULATORY AUTHORITY

3. Establishment
4. Legal personality
5. General Powers
6. Functions
7. Establishment and composition of the Board of Directors.
8. Qualifications of members to the board of the Authority
9. Meetings
10. Duties of members
11. Just administrative action
12. Executive Committees
13. Advisory Committees and Customer Forums
14. Organisation
15. Personnel
16. Services
17. Funding
18. Accounting and accountability
19. Delegation of powers and Authority
20. Reporting

PART III:

REGULATION PROCEDURES AND PRINCIPLES

21. Regulations

PART IV:

MISCELLANEOUS AND SUPPLEMENTAL

22. Obligation of Secrecy

SCHEDULE 1

FORMS OF ENERGY TO BE REGULATED

PART I:

PRELIMINARY

Short title and commencement

1. This Act may be cited as the Energy Regulatory Authority Act, 2005 and shall come into force on a date to be published by the Minister in the gazette.

Interpretation

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

“Authority” means the Energy Regulatory Authority established under section 3;

“Board” means the Board of Directors of the Authority established under section 7;

“Electricity Act” means Electricity Act 2005

“energy” means such forms of renewable and non-renewable energy as are to be designated by the Minister in Schedule I to this Act;

“energy undertaking” means any undertaking selling energy, whether public or private, whose operation is conditional on the obligation to hold a licence issued by the Authority;

“energy laws” means laws governing the energy sector, existing or to be promulgated.

“licence” means a licence granted under Part I Section 6(1) of this Act, and “licensee” bears a corresponding meaning;

“Minister” means the Minister responsible for energy affairs in the Kingdom of Swaziland;

“Ministry” means the Ministry responsible for energy affairs in the Kingdom of Swaziland;

“regulated undertaking” means a licensed entity selling goods and services in the energy sector whose commercial terms and conditions are regulated by the Authority under power conferred to it by this Act and other energy laws conferring power to the Authority.

“this Act” includes the regulations, guidelines and rules;

“utility” means a licensed undertaking, which provides services in a sector subject to special Government regulation.

PART II:

ENERGY REGULATORY AUTHORITY

Establishment

3. (1) There is established an Authority known as the Energy Regulatory Authority.
- (2) The Authority is a Category B Public Enterprise as contemplated in the Public Enterprises (Control and Monitoring) Act, 1989.

Legal personality

- 4 The Authority is a body corporate having perpetual succession and may in its own corporate name sue and be sued and, for and in connection with the purposes of this Act and the energy laws, may perform and be capable of doing all such acts as a body corporate may by law perform.

General Powers

5. (1) The Authority may, in addition to the powers, functions and duties assigned to it under this Act and other energy laws defining its regulatory responsibilities:

- (a) exercise any power and function and perform any duty incidental to the exercise of its powers or functions or the performance of its duties;
- (b) exercise such powers or functions and perform such duties as may be assigned to it under other energy laws conferring power to the Authority or other Act of Parliament.

- (2) Future Acts of Parliament covering the regulation of public utilities in sectors other than energy may transform or integrate the Authority into a utility regulatory Authority expanding its powers to include the regulation of utilities in sectors other than energy; and having its name and Governance structure changed accordingly.

Functions

6. (1) The functions of the Authority assigned to it under the Electricity Act and other energy laws conferring power to the Authority are:

- (a) to issue licenses for undertakings in the energy sector;
- (b) to receive and process applications for licenses from undertakings in the energy sector;
- (c) to prescribe conditions and terms of licenses issued by the Authority;
- (d) to modify licenses and authorizations issued by the Authority;
- (e) to make and enforce directions to ensure compliance with licenses issued by the Authority;
- (f) to regulate and approve tariffs, prices and charges and terms and conditions of services provided by licensed entities, according to the requirements and terms established in their licences;
- (g) to receive, investigate and adjudicate complaints from consumers on price adjustments made, or services provided, by any regulated undertaking, and regulate the inclusion of appropriate conditions to licences held by regulated undertakings;
- (h) to investigate tariff charges, whether or not a specific complaint has been made for a tariff adjustment;

- (i) to monitor the efficiency and performance of licensed undertakings;
 - (j) in conjunction with other Government agencies, monitor the levels and structures of competition within the regulated sub-sectors in order that competition in and accessibility to the regulated sectors in the Kingdom of Swaziland is promoted;
 - (k) to review the organisation of companies engaged in licensed activities to the extent that the organisation affects or is likely to affect the operation of the sector and the efficient supply of goods and services that are provided by licensed undertakings;
 - (l) to develop and enforce performance standards for the licensed activities;
 - (m) to encourage the development of uniform industry standards and codes of conduct;
 - (n) in conjunction with other Government agencies, design standards with regard to the quality, safety and reliability of supply of the goods and services of regulated undertakings;
 - (o) to establish a uniform system of accounts for licensees in the same category;
 - (p) to prepare industry reports and to gather information from licensed companies;
 - (q) to prescribe and collect license fees;
 - (r) to approve codes of conduct in respect of the operation of licensed activities;
 - (s) to acquire information and carry out investigations relating to any of its functions;
 - (t) to promote consumer awareness and education;
 - (u) to perform any other function that is incidental or consequential to its functions under this section, or as may be conferred on it by any other law;
 - (v) to facilitate increasing access to the goods and services supplied by the regulated entities;
 - (w) recommend to the pertinent Ministers such reforms to this Act and the relevant sector laws as the Authority may deem desirable;
 - (x) verify periodic plans of energy consumption, production, transmission and distribution, including the associated investments, in order to ensure their adequacy and timely allocation;
 - (y) establish the controls to ensure legitimate competition in energy production and distribution activities with the aim of securing the interests of all licensees as well as consumers; and
 - (z) review and approve the operational rules of the National Control Centre to ascertain the application of optimal criteria of operation and technical performance levels in co-ordination with the utilities.
- (2) In exercising its powers and functions under the Electricity Act and other energy laws conferring power to the Authority, the Authority shall -
- (a) promote the interests of consumers of goods and services provided by regulated entities with respect to prices and charges and the continuity and quality of supply;

- (b) promote and maintain the integrity and sustainability of regulated undertakings and seek to ensure that regulated undertakings, whilst providing efficient service, are able to finance the carrying on of the activities which they are licensed or authorised to carry on;
- (c) promote economic efficiency in the supply of regulated services;
- (d) distinguish in its level of intervention and imposed reporting requirements between regulation of natural monopolies and entities operating in competitive sectors; and
- (e) regulate its affairs in a manner that is transparent and fair.

Establishment and composition of the Board of Directors

7. (1) There is established a Board of Directors of the Authority which is the governing body of the Authority and is responsible for carrying out the objects of, and exercising the powers and functions conferred on the Authority;

- (a) a chairperson, appointed by the Minister;
- (b) a deputy chairperson, appointed by Minister;
- (c) the chief executive officer who is an in ex-officio member; and
- (d) not less than three and not more than five other members with in-depth knowledge of the energy sector, appointed by the Minister one of who is a representative of the Ministry of Finance.

(2) Subject to section 8 of this Act the Board shall consist of the following members appointed in terms of the section 6 of the Public Enterprises (Control and Monitoring) Act, 1989;

(3) The members of the Board, excluding the chief executive officer, are non-executive members.

(4) The chief executive officer is appointed by the Minister in accordance with section 8(1) of the Public Enterprises (Control and Monitoring) Act, 1989 and serves in a full time capacity.

(5) The chief executive officer serves in an ex-officio capacity as member of the Board.

(6) If the chairperson and deputy are for any reason unable to perform his duties, the other members must choose another chairperson from amongst themselves as chairperson until the chairperson can resume his duties or another chairperson is appointed by the Minister.

(7) A member of the Board, other than the Chief Executive Officer, holds office for a period of three years.

(8) The Minister may, to ensure continuity, reappoint a member for one further period of office.

(9) No member may be appointed for a consecutive period longer than six years.

(10) If a member of the board ceases to hold office for any reason, the Minister may appoint another person in his place for the remainder of the term of office of the board.

(11) A member of the Authority must be paid for services as member such remuneration or allowances as the Minister may determine, with the concurrence of the Minister responsible for finance.

(12) No person may be appointed as member of the Authority if -

- (a) or she is an unrehabilitated insolvent;
- (b) he or she has been convicted of an offence involving an element of dishonesty; or
- (c) there is a probability that a material conflict of interest may arise between the interests of the member of the Authority as member of the Authority and that member's personal, professional and business interests.

(13) All members have to disclose their personal, professional and business interests on appointment in writing to the Minister and advise him whenever these change.

(14) A member of the Board may be removed by the Minister if -

- (a) he or she becomes of unsound mind;
- (b) he or she has been absent from more than three consecutive meetings of the Authority without leave of the chairperson for each absence;
- (c) he or she resigns and has notified the chairperson in writing of his resignation;
- (d) he or she materially transgresses any duty imposed on him under this Act;
- (e) there is proven maladministration of that member;
- (f) he or she has shown gross incompetence in exercise of his duties;
- (g) he or she becomes subject to the criteria specified in subsection 7 (12) (a) to (c); or
- (h) he or she is convicted of an offence specified in subsection 10 (4).

Qualifications of members to the Board of the Authority

8. (1) The chairperson and the deputy chairperson shall fulfil the following functional qualification requirements:

- (a) one of the two members must have strong knowledge and experience in either engineering, economics and/or finance; and
- (b) the other in legal matters, particularly in matters relating to commercial businesses and administrative law.

(2) In appointing members to the Authority, the Minister shall ensure that:

- (a) members have adequate knowledge and experience in one or more of the following functional areas:
 - (i) energy supply and demand, including the end use consumption of electricity;
 - (ii) commercial and business practices and procedures;
 - (iii) financial and funding aspects of the energy sector;

- (iv) energy tariffs, pricing or charges;
 - (v) energy planning and project development;
 - (vi) technology and standards;
 - (vii) environmental issues;
 - (viii) consumer protection; or
 - (ix) legal matters.
- (b) candidates are selected on the basis of their knowledge and experience of national, regional and international issues relating to the supply of energy in the Kingdom of Swaziland;
- (c) the overall composition of the Authority must as far as possible reflect a balance of knowledge and experience relevant to the different types of energy supply regulated by the Authority and the distinct industries involved in the energy sector;
- (d) candidates demonstrate impartiality and objectivity; and
- (e) a fair balance between continuity and capacity building is achieved.

(3) Not more than one member of the Authority may be an employee of the Government of the Kingdom of Swaziland for the first three terms of the Authority, and no member of the Authority may be an employee of the Government of the Kingdom of Swaziland thereafter.

(4) The Chief Executive Officer must have a strong background in engineering, finance and economics.

Meetings

9. (1) The members of the Authority meet at such times and places and in the manner as determined by internal regulation adopted by the Board.

(2) The chairperson may at any time convene an extraordinary meeting of the Authority to be held at a time and place and in the manner determined by him and must, upon a written request of at least two other members of the Authority, convene an extraordinary meeting to be held within two weeks after the date of such request.

(3) The Authority may publish the procedure to be followed at a meeting thereof by bylaw in the Government Gazette.

(4) In the absence of a published procedure under subsection (3), the person presiding at such a meeting of the Authority must determine the procedure to be followed thereat.

(5) Voting at meetings

- (a) The quorum for a meeting of the Authority is a majority of all its members,
- (b) The decision of a majority of the members of the Authority present at a meeting thereof constitutes a decision of the Authority,

- (c) In the event of an equality of votes on any matter the person presiding at a meeting has a casting vote in addition to his deliberative vote.

(6) No decision taken by the Authority or act performed under the Authority of the Authority is invalid only by reason of a casual vacancy on the Authority or of the fact that any person not entitled to sit as a member of the Authority sat at such a meeting at the time the decision was taken or the act was authorised.

(7) Transparency of meetings

- (a) All meetings of the Authority are public unless information.
- (b) materially affecting the rights of any person is tabled in which case an affected person must indicate why such a meeting should not be held in public, and the Authority is satisfied to that effect.
- (c) If the Authority takes a decision in any manner other than at a formal meeting such decision comes into effect immediately but must be reduced to writing and submitted for noting at the first formal meeting of the Authority following such decision.
- (d) The Authority must cause a record of its proceedings to be kept.

Duties of members

10. (1) Any member of the Authority must –

- (a) act in a justifiable and transparent manner whenever the exercise of his discretion is required;
- (b) at all times act in the interests of the Authority and not in his sectoral interests;
- (c) act independently of any outside influence or instruction; and
- (d) act in a manner that is required of any holder of a public office.

(2) A member of the Authority having any interest, directly or indirectly, in any matter under discussion by the Authority, shall as soon as possible after the relevant facts have come to his knowledge, disclose to the chairperson the facts of his interest and nature thereof.

(3) A disclosure under subsection (2) shall be recorded in the minutes of the Authority and, after the disclosure, the member –

- (a) shall not take part nor be present in any deliberation or decision of the Authority; and
- (b) shall be disregarded for the purpose of constituting a quorum of the Authority.

(4) Any member of the Authority who fails to disclose his interest as provided under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand Emalangeni or to imprisonment for a period not exceeding twelve months or both.

(5) The Minister may by notice in the Government Gazette increase the level of the fine set out in subsection (4).

(6) No act or proceedings of the Authority shall be invalidated on the ground that any member of the Authority has contravened the provisions of this section.

Just administrative action

11. (1) Any decision of the Authority affecting the rights of another person must -

- (a) be within the powers of the Authority as set out in this Act;
- (b) be taken within a procedurally fair process; and
- (c) be reasonable.

(2) Any person adversely affected by a decision of the Authority must on request be furnished with written reasons for the decision.

(3) Any person adversely affected by a decision of the authority may bring such action under review by the Electricity Disputes Tribunal.

Executive Committees

12. (1) The Authority may appoint committees consisting of as many members of the Authority and employees of the Authority as may be deemed necessary to perform such functions or exercise such powers of the Authority as the Authority may perform or exercise under this Act, and may at any time dissolve or reconstitute such committees.

(2) The chairperson of any such committee must be a member of the Authority.

(3) The Authority is not divested of any function or power conferred upon a committee under subsection (1).

(4) Any decision of a committee performing a function or exercising a power of the Authority must be tabled at a meeting of the Authority and may be withdrawn or amended by the Authority or referred back to such committee and is, until it has been so withdrawn or amended, deemed to be a decision of the Authority.

Advisory Committees and Customer Forums

13. (1) The Authority may appoint committees consisting of as many of the members of the Authority, employees of the Authority and other persons as may be deemed necessary to advise the Authority in general or on a particular matter.

(2) The Authority may establish consumer forums consisting of as many of the members of the Authority, employees of the Authority and other persons as may be deemed necessary to represent the interests of consumers of electricity or other energy sectors in relation to consumer information, education and dispute resolution.

Organisation

14 The functional-administrative organization structure and administrative procedures of the Authority shall be determined by internal regulation adopted by the Board.

Personnel

15. (1) The board must appoint a suitable person as chief executive officer of the Authority.

(2) The chief executive officer-

(a) is responsible for -

(i) the management of the affairs of the Authority, subject to the directions of the board; and

(ii) administrative control over the employees appointed under subsection (b);

(b) may, subject to subsection (c) and on such conditions as the board may determine, appoint the employees or contract with any person to supply services as may be necessary to perform the work connected with the powers, functions and duties of the Authority;

(c) must be paid and pay employees such remuneration, allowances, subsidies and other benefits in accordance with a remuneration structure as may be determined from time to time in consultation with the board and approved by the Minister;

(d) may from time to time and on such conditions as he or she determines in consultation with the board -

(i) provide collateral security, including guarantees, to a financial institution in respect of a loan granted to any employee of the Authority by that financial institution to enable the employee to acquire, improve or enlarge immovable property for the purposes of his residential occupation;

(ii) establish and manage or cause to be managed pension fund schemes, medical aid schemes and bursary schemes for purposes of study for employees and their dependants.

Services

16 The Chairperson may, subject to such conditions as the Authority may determine, contract with any person to provide goods or supply services as may be necessary to perform the work connected with the powers, functions and duties of the Authority.

Funding

17. (1) The funds of the Authority consist of-

(a) licence fees and/or levies imposed under subsection (2); and

(b) such sums as may be provided by Parliament from time to time for the purposes of this Act and the energy laws, including donor funds.

(c) any other sums that may be raised.

(2) The Minister may, on receipt of the business plan and budget of the Authority, by notice in the gazette prescribe licence fees and/or levies and charges that are payable by a category of licensees and customers set out in the notice.

(3) Any licence fee and/or levy paid in terms of subsection (2) may be recovered from the consumers of the licensee paying such levies and/or licence fees.

(4) The licensee concerned shall pay the licence fee and/or levy collected in terms of subsection (2) to the Authority, to be utilised by the Authority in terms of subsection (6) hereof.

(5) Levies referred to in subsection (2) –

(a) are valid for the period specified in the notice;

(b) are payable in respect of the energy, calculated in a manner set out in the notice, sold for final consumption to consumers;

(c) are payable at the times and in the instalments set out in the notice; and

(d) bear interest, in the case of non-payment or late payment, at a rate set out in the notice.

(6) The Authority must utilise its funds to defray expenses in connection with the performance of its functions and the exercise of its powers in terms of this Act and the energy laws.

(7) The Authority must during each financial year, at least three months prior to the ensuing financial year, submit a business plan and budget for that financial year to the Minister for his approval.

Accounting and accountability

18. (1) The chief executive officer is the accounting officer of the Authority and must-

(a) cause proper records to be kept of all financial transactions, assets and liabilities of the Authority;

(b) open one or more bank accounts in its name with one or more recognised financial institutions and deposit therein all the money received from the sources referred to in clause 17 (1); and

(c) as soon as possible after the end of each financial year, cause an income statement and balance sheet of the Authority for that financial year to be prepared.

(2) The accounts of the Authority shall be audited annually by independent public auditors appointed by the Minister on the recommendation of the Authority.

(3) The financial year of the Authority is the same as that of the Ministry.

Delegation of powers and Authority

19. (1) The Authority may delegate any power or function assigned to it under this Act to the chairperson or any member of the Authority or to any employee seconded to the Authority to facilitate the day to day operation of the Authority.

(2) The chairperson may with the approval of the Authority delegate any power or function assigned to him under this Act or delegated to him under subsection (1) to any member of the Authority or to an employee seconded to the Authority.

Reporting

20. (1) The Authority must-

- (a) furnish the Minister with such information and particulars as he or she may from time to time require in connection with the affairs and financial position of the Authority;
- (b) annually, within six months after the end of each financial year, furnish to the Minister a report with regard to the functions, affairs and financial position of the Authority in respect of that year for submittal to Parliament within thirty days after receipt thereof or, if Parliament is not in session, within fourteen days after the commencement of the next ensuing session.

(2) The annual report referred to in subsection (1) must inter alia include-

- (a) an audited balance sheet and income statement, including any notes thereon and documents annexed thereto whereby relevant information is provided;
- (b) information regarding licences granted, renewed, amended, suspended or withdrawn;
- (c) information regarding rules made, guidelines given and directives issued;
- (d) the report on the audit referred to in section 18(2);
- (e) a report regarding the execution of the business plan of the Authority;
- (f) a report of the future strategic plans of the Authority;
- (g) a status report on the performance of the energy sector and energy undertakings; and
- (h) such other information as the Authority may from time to time deem necessary.

PART III:**REGULATION PROCEDURES AND PRINCIPLES****Regulations**

21. The regulation procedures and principles to be followed by the Authority are defined in the Electricity Act and in other energy laws conferring power to the Authority.

PART IV:**MISCELLANEOUS AND SUPPLEMENTAL****Obligation of Secrecy**

22. (1) Except for any of the purposes of the Electricity Act and other energy laws conferring power to the Authority or for the purpose of any civil or criminal proceedings under any written law or where otherwise authorised by the Authority, no member of the Authority or any of its committees or any officer, servant or agent of the Authority or any person attending any meeting of the Authority or any of its committees, whether during his tenure of office or during his secondment or employment or for a period of five years thereafter, shall disclose any information which has been obtained by him in the course of his duties and which is not published in pursuance of this Act or the energy laws.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding Ten thousand emalangeni (E10 000) or to imprisonment not exceeding ten (10) years.

SCHEDULE 1

FORMS OF ENERGY TO BE REGULATED

(1) Electricity generation, transmission, distribution and supply in terms of the Electricity Act.

THE ELECTRICITY BILL 2005 (Bill No. 6 of 2005)

(To be presented by the Minister for Natural Resources & Energy)

MEMORANDUM OF REASONS

The objective of this Bill is to provide for the Regulation of the Generation, Transmission, Distribution and Supply of Electricity.

**P.M. DLAMINI
ATTORNEY GENERAL**

A BILL entitled

An Act to reform and consolidate the law of electricity and to provide for matters connected therewith.

ENACTED by the King and Parliament of Swaziland

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PART I:

PRELIMINARY

Short title and commencement

1 This Act may be cited as the Electricity Act, 2005 and it shall come into force on a date to be appointed by the minister in the gazette.

Interpretation

2 In this Act, unless the context otherwise indicates-

“Authority” means the Energy Regulatory Authority established under the Energy Regulatory Authority Act, 2005;

“candidates” mean those who have submitted a request for participation in an invitation to tender;

“case of emergency”, with reference to a right of entry on or to land or premises conferred under this Act, means a case in which the person requiring entry to the land or premises in question has reasonable cause to believe that circumstances exist which are likely to endanger life or property, and that immediate entry to such land or premises is necessary to verify the existence of those circumstances or to ascertain their cause or to effect a remedy;

“common carrier” means an electricity transmission or distribution line;

“consumer” means a person supplied or entitled to be supplied with electricity by any licensee or supplier;

“contract of supply” means a contract between the operator of an electricity undertaking and any other person for the supply of electricity to that person;

“contractors” mean those who sell, rent, or with some other similar means supply goods or carry out services or works in accordance with a procurement contract

“designated area” means an established human settlement hierarchy or framework within a national or regional development plan or similar.

“distribution” means the ownership, operation, management or control of distribution facilities for the movement or delivery of electricity to consumers, distribute and distributing have corresponding meanings;

“distribution facilities” means electrical facilities operated at distribution voltage and used for the movement or delivery of electricity;

“distribution line” means any cable or overhead line for the distribution or reticulation of electricity from an electricity undertaking to a consumer, together with any transformers, switchgear or other works necessary to, and used in connection with, such cable or overhead line, and the buildings such part thereof as may be required to accommodate such transformers, switchgear and other works;

“distributing main” means the portion of any main which is used for the purpose of giving origin to service lines for the purpose of general supply;

“distribution voltage” means any voltage below the minimum transmission voltage;

“distributor” means a person distributing electricity;

“electrical fittings” means electric lines, fittings, apparatus and appliances designed for use by consumers of electricity for lighting, heating, motive power and other purposes for which electricity can be used;

“electrical plant” means any electrical line, plant, equipment, apparatus and appliance used for the purposes of generation, transmission or distribution of electricity, but does not include electrical fittings;

“electrician” means any person who installs, maintains or repairs electrical plant or electrical fittings on the premises of licensees or consumers;

“electricity” means electrical energy or electrical power when generated, transmitted, distributed or supplied or used for any purpose except for the transmission of any communication or signal;

“electricity undertaking” means any installation for the generation, transmission, distribution or supply of electricity which is owned or operated by a licensee, and “electricity undertaker” bears a corresponding meaning;

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting or distributing electricity with any casing, coating, covering, tube, pipe or insulator enclosing, surrounding or supporting the same or any part thereof, any apparatus connected therewith for the purpose of conveying, transmitting, distributing or transforming electricity and any pole, standard, guard, stay-wire, danger plate or other apparatus or appliance required in connection therewith;

“emergency works” means works whose execution at the time when they are executed are requisite –

- (a) in order to put an end to, or to prevent the arising of, circumstances then existing or imminent which are calculated to cause danger to persons or property, interruption of a supply or service afforded by a licensee or substantial loss to such licensee; or
- (b) in order to enable a licensee to afford a supply of electricity or a service to satisfy an obligation created by this or any other Act within a time fixed by or under such Act, and in relation to works comprising items whereof some fall within it and such others of them as cannot be reasonably severed therefrom;

“financial year” means the financial year of a licensee;

“general supply” means the supply of electricity to consumers in general and includes, unless otherwise specially agreed with an urban Authority, the supply of electricity to public lamps, traffic signals, traffic bollards or other traffic signs or apparatus maintained and controlled by such Authority, but does not include the supply of electricity to a consumer or consumers in particular under special agreement;

“generation” means the production of electricity in generating stations regardless of how such stations are fuelled or driven, and generate and generating have corresponding meanings;

“generator” means a person generating electricity;

“generating station” means any station for generating electricity including any building, plant and machinery used for the purpose and all accessories necessarily incidental thereto, together with the site thereof, and any site intended to be used for such a station;

“grid code” means a national grid code or similar regulations of national application prescribed by the Authority, relating to the planning, scheduling or dispatch of electrical energy in the Kingdom of Swaziland;

“inspector of machinery” means an inspector appointed as such under the Mines, Works & Machinery

Act, No. 61 of 1960;

“land” includes land covered by buildings and land covered by water;

“licensee” means the holder of a licence granted or deemed to be granted by the Authority under the Energy Regulation Act, 2004 for the generation, transmission, distribution and supply of electricity;

“main” means any electric line through which electricity may be supplied or be intended to be supplied by a licensee for the purposes of general supply;

“minimum transmission voltage” means thirty three kilovolts or such other voltage as the Authority may, by regulation, determine to be the minimum voltage at which an electrical facility in the Kingdom of Swaziland is generally operated when used to deliver electricity in bulk;

“Minister” means the Minister responsible for energy affairs in the Kingdom of Swaziland from time to time;

“Ministry” means the Ministry responsible for energy affairs in the Kingdom of Swaziland from time to time;

“minor works” means works executed solely for the purpose of erecting or placing service lines (not being works which relate to the placing or intended placing of a service line or a part of a service line for a continuous length of one hundred meters or more in or along a public road) or works executed solely for the purpose of maintaining, repairing or altering electric lines or apparatus;

“occupier” includes the person receiving or entitled to receive the rents payable by a lodger or tenant, whether on his own account or as agent for any other person entitled or interested therein;

“owner” means –

- (a) the person or persons in whom from time to time is vested the legal title to any immovable property;
- (b) in any case where the property has been leased for 10 years or more the lessee of such property;
- (c) in any case where the legal administration of such property is vested in a person as trustee, executor, curator, assignee or administrator of such property, the person in whom the legal administration is so vested;
- (d) in any case where the owner as above described is absent, the agent or person receiving the rent of the property in question;

“occupier”, “owner” or “person” in the case of a firm or partnership includes all or any one or more of the members of such firm or partnership, and in the case of a company or any body or persons not being a firm or partnership in the ordinary meaning of these terms, the secretary or manager of such company or body of persons, or should there be no secretary or manager, then any member of the board of directors, managing board or committee of such company or body of persons;

“person” includes statutory and governmental bodies and institutions;

“premises” means any building, room, tenement, hut, shed, tent or other erection, above or below the ground, together with the land upon which the same is situated and any adjoining land used in connection therewith, and any land without buildings or tents, and includes any vehicle or conveyance,

and includes open air premises;

“procurement” means purchase, rental or corresponding transactions in respect of goods, services and works in all parts of the electricity supply industry; and in particular in power generation;

“rated generating capacity”, in relation to installed generating plant, means the designed maximum continuous output of the generating plant;

“road” means any road, whether public or private, together with the kerbs, storm water drains and supporting banks thereof, and any street, square, court, alley, lane, bridge, footway, trace, track, path, passage or highway, whether a thoroughfare or not;

“roadworks” means the reconstruction, widening, diversion or alteration of the level of any road or part thereof or any alteration in the relative widths of the catridgeways or footways thereof;

“service line” means any electric line through which electricity may be supplied or be intended to be supplied by a licensee to a consumer either from any main or directly from the premises of the licensee;

“supply” means the purchase and sale of electricity and activities or services associated therewith, and “supplying” has a corresponding meaning;

“supplier” means a person supplying electricity;

“Swaziland Electricity Board” means the Swaziland Electricity Board (SEB), established in terms of the Electricity Act No. 10 of 1963 (as amended), or any successor in title to the Swaziland Electricity Board;

“system operator” means a person designated to operate the power system as described in section 7 and in accordance with the Grid Code;

“tenderers” means those who submit a tender;

“transmission” includes the ownership, operation, management or control of transmission facilities for whatever purpose, and transmit and transmitting have corresponding meanings;

“transmission facilities” means electrical facilities, including but not limited to electrical circuits, transformers, and substations operating above a voltage of thirty three kilovolts but does not include -

(a) electrical circuits forming the immediate connection between generation facilities and the transmission grid and to the extent that those circuits are owned by a generator and are directly associated with the generation facilities; and

(b) specified facilities operating at or above minimum transmission voltage if the Authority, upon application by a licensee, determines that those facilities should be owned and operated by a distribution licensee;

“transmitter” means a person transmitting electricity;

“this Act” includes the regulations, guidelines and rules; and

“value of the supply” means the amount of electricity supplied by a licensee to any consumer or the maximum power demand of a consumer in any given period.

PART II:**REGULATION OF THE ELECTRICITY SUPPLY INDUSTRY*****Power system activities to be carried out under licence***

3 (1) Persons generating, transmitting, distributing or supplying electricity, or importing electricity into or exporting electricity from the Kingdom of Swaziland, are obliged to hold licences issued by the Authority established under the Energy Regulatory Authority Act 2005, and shall be subject to the provisions of their licence, the bylaws and procedures of the Authority, and the requirements of the Laws of the Kingdom of Swaziland.

(2) The power system activities for which a licence is required are –

- (a) generation of electricity;
- (b) transmission of electricity;
- (c) performing the function of integrated power system operator
- (d) distribution of electricity;
- (e) supplying of electricity;
- (f) off-grid and mini-grid supplies of electricity; and
- (g) importing electricity into or exporting electricity from the Kingdom of Swaziland.

(3) Any person who wishes to erect and establish any works-

- (a) which will be rated at the site where it is to be installed at a capacity of one hundred or more kilowatts, for generating, transmitting, transforming, converting or distributing electricity; or
- (b) the plant of which is rated at the site where it is installed at a capacity of less than one hundred kilowatts and which is used for the generation, transmission, distribution, or supply of electricity for the use of any other person, whether or not it is for the operators own use:

shall do so in accordance with regulations made under this Act, and shall comply with any requirement of the Minister or the Authority for the purpose of facilitating co-ordination with existing or future electricity undertakings.

(4) Despite the provisions of subsections (1) and (2), and notwithstanding the provisions of the Energy Regulatory Authority Act 2005, a person carrying on or involved in an activity specified in Schedule II need not apply for or hold a license.

Generation License

(1) No person shall construct, own or operate a generating station as referred to in 3 (3) without a generation license issued under this Act.

Special Provisions for Hydropower Plants

5. (1) On the expiry of a license for a hydropower plant with a generation capacity exceeding 10 megawatts, the plant, including all existing installations, property and rights needed for power generation, shall be transferred to the Government.

(2) The power plant and installations transferred under subsection (1) shall be operational and well maintained at the time of transfer.

(3) On the transfer under subsection (1), the power plant, including all installations, property and rights required for power generation shall be dealt with by the Government in any manner it deems appropriate.

(4) This section does not apply where fifty per-cent or more of the power plant, or of the company which owns the power plant, is owned by the Government.

Transmission License

6. (1) No person shall construct, own or operate an installation for the transmission of electricity without a transmission license granted by the Authority.

(2) A holder of a transmission license shall provide access to all existing and potential users of the transmission network on the payment of fees and other charges for network services, as may be approved by the Authority.

(3) A holder of a transmission license shall work in close co-operation with the System Operator.

(4) A licensee shall provide the Authority with such information as the Authority may prescribe to enable the Authority to approve the fees and charges under subsection (1).

System Operator License

7. (1) The Authority shall designate a person holding a transmission license to be a System Operator and license that person—

- (a) to co-ordinate the power supply system to obtain instantaneous balance between generation and consumption of electricity;
- (b) to be responsible for dispatching generation installations;
- (c) to co-ordinate transmission outages;
- (d) to plan and monitor the import and export of electricity;
- (e) to prepare forecasts of capacity requirements;
- (f) to develop and co-ordinate generation and transmission maintenance schedules;
- (g) to decide how much backup capacity is needed and how to obtain it;
- (h) to prepare contingency plans that can be immediately implemented if a major generating or transmission facility fails;
- (i) to make bylaws, with the approval of the Authority, for the dispatch of generating installations;

- (j) to perform such other functions as may be prescribed by the Authority in the license or by regulations.

(2) The System Operator shall not, in the performance of his functions, show undue preference to any person or execute any kind of undue discrimination of any parties affected by his decisions.

(3) The System Operator shall recover all reasonable costs connected to the execution of its functions under this section, with the approval of the Authority.

(4) All licensees shall comply with the decisions of the system operator in connection with the execution of his functions under this Act or regulations made under this Act.

Distribution License

8. (1) No person shall distribute electricity without a distribution license granted by the Authority.

(2) The area of distribution shall be defined in the license.

(3) To allow third party access to distribution networks:

- (a) a holder of a distribution license shall provide access to all existing and potential users of the distribution network on the payment of fees and other charges for network services, as may be approved by the Authority.

- (b) a licensee shall provide the Authority with such information as the Authority may prescribe to enable the Authority to approve the fees and charges under subsection 8(3)(a).

- (c) where a holder of a distribution license cannot, due to any reason other than lack of capacity or technical conditions, allow access to the distribution system, a consumer may apply to the Authority for permission to access the distribution system and construct an electric supply line to his premises.

- (d) the Authority may, upon receipt of an application under subsection 8(3)(c), order the holder of a distribution license to allow the consumer to connect to the distribution system on such terms and conditions as the Authority may prescribe,

- (e) including the method through which the consumer may recover his costs for constructing the electric supply line, and access by other consumers to the electric supply line.

- (f) where a connection is made to the distribution system on the application of the distribution license holder, the Authority may direct the owner of the line constructed under subsection 8(3)(c), to transfer the ownership of the line to the distribution license holder on such terms, including terms as to compensation, as may be agreed between the distribution license holder and the consumer.

(4) The quality of distribution services shall be in accordance with standards prescribed by the Authority.

(5) A distribution licensee shall not be licensed to build, own or operate a generating station for sales of electricity for a combined total in excess of twenty percent (20%) of its demand requirements *provided that* this subsection shall only come into effect on a date to be determined by the Minister in the Gazette.

Supply License

9. The supply of electricity shall be subject to a supply license granted by the Authority.

Import and Export License

10. (1) No person shall import or export electricity without an export or import license as the case may be, granted by the Authority.

(2) An agreement in principle for the import or export of electricity shall accompany an application for a license under subsection (1).

Separate and Combined Licences

11. Separate or combined licences may be issued by the Authority to a particular generator, transmitter, system operator, distributor or supplier of electricity.

Duration of Licence

12. (1) Generation licences may not be issued by the Authority for a period exceeding 40 years; transmission and system operator licences may not be issued by the Authority for a period exceeding 30 years; and distribution and supply licences may not be issued by the Authority for a period exceeding 25 years.

(2) The Authority may, with the approval of the Minister, issue generation, transmission, distribution or supply licences for periods longer than that set out in subsection (1).

Offence for Operating without a License

13. (1) A person who –

- (a) generates, transmits, acts as system operator, or distributes electricity for the purpose of giving a supply to any premises or enabling a supply to be so given;
- (b) sells electricity to any premises; or
- (c) exports or imports electricity,

except under the Authority of or under an exemption given under this Act, commits an offence.

(2) The offender is liable on conviction to a fine payable to the Authority of not less than 50,000 Emalangeni, or imprisonment for a period not exceeding twenty-four months or both.

5 (2) The authority may, with the approval of the Minister, issue generation, transmission, distribution or supply licences for periods longer than that set out in subsection (1).

PART III:**APPLICATION FOR AND ISSUING OF LICENCE*****Application for and Issuing of Licence***

14. (1) Any person obliged to hold a licence, must apply to the Authority for a licence.

(2) The Authority may prescribe in the bylaws published in the gazette-

- (a) the procedure to be followed in applying for and considering an application for a licence under subsection (1);
- (b) the definition of categories of licensees.

Conditions of licence

15. (1) The Authority may make a licence granted under section 14 (1) subject to any condition deemed appropriate for serving the purposes of the Electricity Act.

(2) Without derogating from the general nature of subsection (1), conditions relating to licences may include-

- (a) the establishing and complying with guidelines to govern relations between a licensee and its consumers;
- (b) the referring of disputes arising from the licence to the Authority for resolution;
- (c) penalties, including monetary penalties, for non compliance with licensing conditions;
- (d) the furnishing of information, documents and details which the Authority may require for the purposes of this Act;
- (e) the period of validity of the licence;
- (f) the approval of tariffs, prices and charges;
- (g) the quality of supply and service;
- (h) the setting, approving and meeting of performance targets, including the monitoring thereof;
- (i) the ceding, transference or encumbrance of licences;
- (j) the transfer of assets, rights and obligations;
- (k) the area of service of a regulated undertaking; and
- (l) technical standards.

(3) Despite the provisions of subsections (1) and (2), any condition relating to the approval of tariffs, prices or charges must be imposed with due regard to-

- (a) financial sustainability of licensees;
- (b) cost of service;
- (c) quality of service;
- (d) equity and fairness;
- (e) consistency of adjustments;

- (f) affordability; and
- (g) price stability.

(4) A licensee may not charge a consumer any other tariff, price or charge than that forming part of the conditions of the licence.

Transfer of licences

16. (1) No licence and no rights or privileges thereunder shall be assigned or transferred, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person without the prior written consent of the Authority, and such consent shall not be unreasonably withheld.

(2) No change, transfer or acquisition of control of the licensee shall occur without the prior written consent of the Authority. A transfer of control of the licensee shall be deemed to occur upon the acquisition or accumulation by any person or an affiliated group of persons of fifty percent (50%) or more of the voting stock of the licensee or of a percentage of any voting stock of the licensee which is larger than any other block of voting stock that is held by any one (1) person or an affiliated group of persons; provided, however, the transfer of a deceased shareholder's shares upon death, the transfer of a shareholder's shares to members of the shareholder's immediate family or to a trust benefiting members of the shareholder's immediate family, the transfer of a shareholder's shares to persons designated in deceased's will, or the acquisition or accumulation of shares in an employee pension fund or such other similar fund shall not be deemed to be a change, transfer or acquisition of control.

Revocation and amendment of licences

17. (1) The Authority may revoke a licence or a condition of a licence-

- (a) on application or with the permission of a licensee; or
- (b) upon material non-compliance by a licensee with a licence or a condition thereof.

(2) The Authority may amend a licence or a condition of a licence-

- (a) on application or with the permission of the licensee; or
- (b) upon non-compliance by a licensee with a licence or a condition thereof; or
- (c) if it is deemed necessary to further the purposes of this Act.

(3) The Authority must by rule in the gazette prescribe the procedure to be followed in amending or revoking a licence under subsections (1) or (2).

(4) When the Authority amends a licence or a condition of a licence under subsection (2), it may include or amend any licensing condition referred to in section 15(1) and (2).

Renewal of licences

18. (1) A condition relating to the period of validity of a licence may not be amended and a licensee who wishes to continue carrying on or be involved in licensed undertaking must apply for a new licence when the licence lapses.

(2) The Authority must by rule in the gazette prescribe the procedure to be followed in the renewal of a licence under subsection (1).

Non-compliance with licensing conditions

19. (1) If a licensee fails to adhere to the licence, the conditions on which it was granted, or the provisions of the sector Act, the Authority may serve on the licensee a notice in writing to rectify such deficiency within the period the Authority may determine, failing which the Authority may-

- (a) impose such penalties as may be provided for in the bylaws or the licensing conditions of such licensee;
- (b) amend the licence;
- (c) revoke the licence; or
- (d) direct any other licensee to meet the obligations of such licensee.

(2) When the Authority directs a licensee to meet the obligations of another licensee under subsection (1)(d) it may include or amend any licensing condition referred to in section 15(2) as well as conditions relating to -

- (a) the long-term sustainability of the licensee meeting the obligations of another licensee;
- (b) the entering into and taking possession of the undertaking of that other licensee;
- (c) the operating of the business of the other licensee on behalf and at the risk and expense of such licensee;
- (d) the paying of expenditure to cover expenses and losses caused in meeting the obligations of that licensee; and
- (e) the taking over of such assets of the licensee.

(3) Despite the provisions of subsection (2)-

- (a) the security of any debenture holder or mortgagee or the right of enforcing such security, is not affected; and
- (b) any civil claim which any person may have against a licensee arising from that licensee's failure to comply with the licensing conditions, is not precluded.

(4) The Authority must by rule in the gazette prescribe the procedure to be followed in imposing penalties, amending or revoking a licence or directing a licensee to meet the obligations of another licensee under subsection (1).

Expiration

20. (1) When a licence expires and has not been renewed or transferred, the Authority may order the licensee to dismantle and remove all plant, equipment and facilities used in the licensee's business, and reinstate the land to the satisfaction of the Authority within two years from the date of expiry of the licence.

(2) The Authority may call upon the licensee to provide security to an amount and in the form acceptable to the Authority.

(3) The Minister may in the interests of the State exempt the licensee from dismantling and removing all or any facilities as envisaged in subsection (2).

Guidelines and Bylaws

21. (1) The Authority may, after consultation with-

- (a) the Minister;
- (b) licensees; and
- (c) such other interested persons as may be deemed necessary,

make guidelines and publish bylaws for the proper administration of the Electricity Act.

(2) Without derogating from the general nature of subsection (1), guidelines may relate to-

- (a) the relationship between licensees and consumers;
- (b) codes of business practice and ethics;
- (c) performance objectives and the setting, approving and meeting of performance targets; and
- (d) any other matter the Authority deems appropriate for serving the purposes of this and the sector Act.

(3) Without derogating from the general nature of subsection (1), bylaws may relate to-

- (a) any issues relating to section 21 (2)
- (b) the proceedings to be followed at meetings of the Authority;
- (c) the keeping of records and the giving of reasons by the Authority;
- (d) ensuring fair administrative action by the Authority in the exercise of its discretion and in particular the right of interested parties to be heard;
- (e) the classification of categories of licences;
- (f) the form and manner of licence applications;
- (g) the publishing of notices by licensees and the contents thereof;
- (h) the procedure to be followed in considering licence applications;
- (i) the procedure to be followed in the amendment, revocation and renewal of licences and in the non-compliance with licensing conditions;
- (j) penalties for the non-compliance with licensing conditions;

- (k) the procedure to be followed in directing a licensee to meet the obligations of another licensee;
- (l) the procedure to be followed and fees to be paid in arbitration and mediation proceedings;
- (m) the summoning of witnesses and the procedure to be followed in enquiries and investigations;
- (n) the rendering of information and returns;
- (o) the standards relating to quality of supply and service;
- (p) any other matter that may or has to be prescribed, determined or provided for in this Act or the energy laws.

(4) The Authority may make bylaws to establish a Grid Code;

(5) A rule made under subsection (3) must be published as a bylaw in the gazette.

(6) The Authority may direct any person or category of persons by notice in writing to comply with or refrain from doing something which has to be complied with or should be refrained from being done under this Act, within the time period set out in the notice.

Exemption from obligation to apply for and hold licence.

22. (1) Any person who generates, transmits or distributes electricity for his own use approved and authorised by the Authority.

(2) Any person who sells less than 1 GWh of electricity per annum to customers: Provided that the conditions relating to the supply of electricity thus sold and the tariffs charged are not less favourable than the conditions of supply and tariffs that would have been applicable if such customers were directly supplied with electricity by the Licensee who sells electricity to the person supplying such customers with electricity under this exemption.

(3) Off-grid and mini-grid supply schemes specifically exempted by the Minister in terms of subsection 64 (1) (j).

PART IV:

DUTIES OF LICENSEES

Duties

23. (1) Every operator of an electricity undertaking shall supply electricity to every consumer who is in a position to make satisfactory arrangements for payment under a contract of supply with that operator, and is primarily in a designated area.

(2) Where an operator of an electricity undertaking unduly delays or refuses to supply any applicant with electricity, the consumer may appeal to the Authority, which shall determine the conditions under which the operator shall undertake such supply.

(3) A person who is supplied with electricity from an operator of an electricity undertaking shall not be entitled to a standby supply of electricity from the operator in respect of any premises unless that person has agreed to pay, and has given security to pay, such minimum annual sum as will give to the operator a reasonable return (which return will be determined by the Authority) on any capital expenditure and any other standing charges which may be incurred in meeting the

maximum demand for the premises.

(4) An operator of an electricity undertaking shall test any installation of an applicant for a supply of electricity to ensure the safety of the installation and the users.

(5) If an operator is not satisfied with the safety of an installation, the operator is not obliged to supply electricity.

PART V:

COMMON CARRIERS AND ELECTRICITY UNDERTAKING CAPACITY VARIATIONS

Common Carriers and Capacity Variations

24. (1) The Minister may, by proclamation in the Gazette, declare any transmission or distribution line to be a common carrier for the purposes of this Act.

(2) A transmission or distribution line that is declared, under subsection (1), to be a common carrier may, subject to any regulations made under this Act, and any requirements made by the Minister and the Authority under subsection 3 (3), be used for the purposes of an electricity undertaking on such terms and conditions as may be agreed between the operator of the electricity undertaking and the owner or person in control of the transmission or distribution line concerned, or in default of such agreement, as may be determined by the Authority with the consent of the Minister.

(3) If any electricity undertaking wishes to increase or decrease its rated generating capacity by more than five percent (5%), or its contractual rights to purchase, transmit and/or wheel power from outside the Kingdom of Swaziland, or its contractual rights to sell or wheel power to consumers outside of the Kingdom of Swaziland, it shall apply to the Minister for approval and shall submit to the Minister a full report on its proposals.

(4) If any electricity undertaking wishes to expand its transmission system by more than fifteen percent (15%) per annum of its existing capital investment in such system, it shall apply to the Minister for approval and shall submit to the Minister a full report on its proposals.

(5) The Minister shall, in considering any application under this section, have regard to the terms of any relevant international agreement.

(6) The Minister may, after considering the report submitted under this section, and after consulting with the Authority, approve or refuse the application.

PART VI

TENDERING FOR NEW CAPACITY

Tendering – Generalities

25. (1) The Authority in co-operation with Minister shall prepare calls for tender for new capacity construction in the areas of power generation, transmission and distribution as considered necessary in the light of mid- to long-term demand developments.

(2) The Authority shall launch tender procedures for the procurement of such new capacity and examine and review, in close co-operation and consultation with the Minister, any bids received under such procedures or otherwise.

(3) The calls for tender shall specify in sufficient detail the size of the project, its input fuel where appropriate, environmental specifications as needed, as well as any other information necessary.

The award of contracts

26. (1) Advantage shall be taken, in contract procedures, of existing possibilities of competition. Regardless of the value of the procurement, a tender notice must be published or a sufficient number of tenders, which is in proportion to the size and quality of the procurement shall be otherwise invited. If in a procurement that is lower than the threshold, a supplier other than those who have been invited to tender wishes to submit a tender, he shall be entitled to receive a tender. The procurement must not, however, be delayed on account of this.

(2) A contract may be awarded without an invitation to tender only for special reasons. Such reasons may be, among others, urgent need for new capacity or small value of the procurement.

(3) The award of contracts (power purchase agreements) shall be carried out by the Authority according to the procedure and criteria laid out in regulations developed by the Authority and approved by the Minister.

Criteria for the selection of a candidate or a tenderer

27. (1) Candidates or tenderers who do not fulfil technical, economic or other conditions for performance of the contract or who have failed to pay taxes or social security contributions in Swaziland or in the country where the contractor has established his head office (country of establishment) may be excluded from an invitation to tender. Such a candidate or tenderer shall be informed of the reasons for his rejection, if he requests so.

(2) The candidates and tenderers shall be treated on an equal and impartial basis at all stages of the award procedure. If the candidate or tenderer is a community or an institution owned by the contracting entity, it shall be treated in the same way as the other candidates or tenderers.

(3) The procurement shall be affected as economically as possible. The contract shall be awarded to the tender with the lowest price or to the one that is most economically advantageous as a whole, taking into account the criteria set out under Section 24(1) (c).

(4) Tenderers shall be selected and contracts shall be awarded accordingly to the schedule set out in regulations by the authority.

Legal remedies - Review of decisions and compensation

28. (1) Decisions made under section 24(2) (c) may be brought on review before the Electricity Disputes Tribunal.

(2) Any person who has occasioned harm to a candidate, tenderer or contractor by a procedure contrary to this Act or to provisions or regulations issued in pursuance hereof shall be obliged to pay damages for the harm caused.

(3) In a claim for damages representing the costs of participating in an award procedure, the candidate or tenderer shall, in order to be awarded damages, be required only to prove that:

- (i) The procedure followed was contrary to this Act or to provisions or to regulations issued in pursuance hereof; and

- (ii) He would have an actual chance of being awarded the contract if the correct procedure had been followed.

Miscellaneous provisions

29. (1) Obligation to provide information for the supervision of the contract and exchange of information, the contracting entities shall provide the authorities in Swaziland, to the extent determined by the Ministry responsible for finance, with statistical and other information on the different stages of the contract award procedure.

(2) Right of access to information and non-disclosure obligation
Any person who, in the performance of functions referred to in this Act, has gained knowledge of trade secrets or professional secrets or other corresponding facts which might cause economic damage to the party concerned, may not disclose them or use them without legal right, unless the party concerned has given his consent.

(3) Penal provision: Any person contravening section 28 (2) commits an offence, and is liable to conviction of a fine of not less than fifty thousand Emalangeni (E50 000-00), or imprisonment for a period not exceeding twenty four months or both.

PART VII:

TARIFFS

Tariffs

30. (1) The following activities are subject to tariff regulation:

- (a) generation and trading, in respect of which licences are required pursuant to this Act, and where the Authority considers regulation of prices necessary to prevent abuses of market power; and
- (b) transmission, distribution and system operation, in respect of which licences are required under this Act

(2) An application for a license for the activities referred to in subsection (1) shall contain:

- (a) a proposal for terms of supply and for fixing the tariffs including total tariff revenues;
- (b) the structure of calculation of tariffs; and
- (c) information about existing and planned investments and present and future quantity of electricity transmitted, distributed or sold.

(3) A proposal under subsection (2) shall be in accordance with principles prescribed by the Authority under subsections (4)-(6):

(4) Prices for the activities referred to in subsection (1) shall be regulated according to one or more methodologies adopted by the Authority for regulating electricity prices. Such tariff methodologies shall:

- (a) allow a licensee that operates efficiently to recover the full costs of its business activities, including a reasonable return on the capital invested in business;

- (b) provide incentives for the continued improvement of the technical and economic efficiency with which the services are provided;
- (c) provide incentives for the continued improvement of quality services;
- (d) give to consumers proper signals regarding the costs that their consumption imposes on the licensee's business;
- (e) avoid undue discrimination between consumers and consumer categories.

(5) The Authority shall take into account any subsidy provided by the Rural Access Fund, if such a fund is created, or from any other source, whether direct or by way of favourable financing terms, or in any other manner, in establishing its tariff methodologies.

(6) Notwithstanding subsection (4), the Authority shall have the Authority to establish tariff methodologies that reflect the terms and conditions of a contract between licensees or between a licensee and one or more eligible customers.

(7) Notwithstanding clause (e) of subsection (4), in establishing tariff methodologies the Authority may differentiate among consumers on the basis of differences in total electricity consumption, the time periods on which electricity is consumed, load factors, power factors, voltage levels, location within the country and other such criteria as may affect the cost of providing a service and may allow a lifeline tariff for some consumers.

(8) Prior to approving a tariff methodology, the Authority shall give notice in the official gazette of the proposed establishment of a tariff methodology, indicating the period within which objections or representations in connection with the same may be made to the Authority.

(9) In preparing a tariff methodology, the Authority shall:

- (a) consider any representations made by licence applicants, other licensees, consumers, eligible customers, consumer associations, associations of eligible customers and such other persons as it considers necessary or desirable;
- (b) obtain evidence, information or advice from any person who, in the Authority's opinion, possesses expert knowledge which is relevant in the preparation of the methodology.

(10) Any fines or penalties levied against a licensee in terms of this Act or any other law or regulation shall not be rechargeable to the licensee's customers.

PART VIII:

PROMOTION OF ELECTRICITY ACCESS

Rural Electrification as Priority for Power Sector Policy

31 (1) The Government shall undertake to promote, support and provide rural electrification programmes through public and private sector participation in order to—

- (a) achieve equitable regional distribution access to electricity;
- (b) maximise the economic, social and environmental benefits of rural electrification subsidies;
- (c) promote expansion of the grid and development of off-grid electrification; and

- (d) stimulate innovations within suppliers.

Preparation of Rural Electrification Plan

32. (1) The Minister shall prepare a sustainable and co-ordinated Rural Electrification Strategy and Plan for Swaziland for the approval of Cabinet.

(2) The Minister shall, once in each year, submit to Parliament, an annual report on the progress and achievement of the Plan, which shall contain information relating to -

- (a) the expansion of the grid;
 - (b) the renewable energy power generation for sale to the grid and for mini-grids;
 - (c) the installation of solar photo voltaic systems for isolated settlements that cannot be economically connected to the grid.
- (3) The Minister shall periodically evaluate the impact of the rural electrification programme.

(4) The Minister may, from time to time, with the approval of Cabinet, amend the Rural Electrification Strategy and Plan.

Connection Targets as Performance Indicator for Distribution Companies

33. (1) Distribution companies when presenting their tariff proposals to the Authority for approval shall present a five-year expansion plan which includes targets for the number of new connections to be achieved.

(2) Failure to reach agreed connection targets shall be subject to the payment of fines fixed by the Authority, as a minimum reflecting the cost to the distribution company for not providing electrification service.

Provision for Coordination with Rural Access Fund

34. (1) In case the Government decides to establish a donor-supported Rural Access Fund (RAF), providing grant support to co-fund priority investments increasing the access of the rural population to basic infrastructure services, such as electricity and telecommunications, the Minister in consultation with the Authority shall develop a policy for how the funds from the Rural Access Fund, are to be used in conjunction with the connection targets fixed in the tariff approval procedures.

(2) The moneys of the Fund shall consist of-

- (a) moneys appropriate by Parliament;
- (b) any surplus made from the operations of the Authority and declared to the Minister of Finance;
- (c) a levy on transmission bulk purchases of electricity from generation stations to be determined by the Minister with the approval of Cabinet; and
- (d) donations, gifts, grants and loans acceptable to the Minister and the Minister responsible for finance

(3) The Minister shall-

- (a) administer the Fund in accordance with this Act;
- (b) develop criteria for eligibility to receive financial support from the Fund;
- (c) define the subsidy level that will provide maximum access to electricity; and
- (d) carry out any other functions necessary for promoting rural electrification.

(4) The Minister shall, by statutory instrument, make regulations for the Management for the Fund.

Rural Electrification Data Base

35. The Ministry shall maintain a national rural electrification data base to assist in the monitoring of progress and establishment of the targets of rural electrification.

Publishing of Tariffs

36. The Authority in agreement with the Minister, may impose on the system operator the requirement to publish standardised tariffs based on the avoided cost of the system for sales to the grid of electricity generated by the renewable energy systems of up to a maximum capacity of twenty megawatts.

PART IX:

TRANSITION PROVISIONS

Right to License of existing Operators

37. (1) Upon the commencement of this Act-

- (a) any licence granted under the provisions of the Electricity Act No.10 of 1963 by the Swaziland Electricity Board shall be deemed to be a licence issued by the Authority as contemplated in the Energy Regulation Act; and
- (b) any generator, transmitter, distributor or supplier not in possession of a licence contemplated in subparagraph (a) shall, whether exempted to hold a licence or not, be deemed to be the holder of such a temporary licence.

(2) Notwithstanding anything contained to the contrary in the Electricity Act No. 10 of 1963-

- (a) any licence contemplated in subsection (1)(a) shall be deemed to be subject to the conditions under which it was issued prior to the commencement of this Act;
- (b) any licence contemplated in subsection (1)(a) or (b) shall be deemed to incorporate the schedule of standard prices applied by the generator, transmitter, distributor or supplier concerned; and
- (c) any licence contemplated in subsection (1)(a) or (b) shall be valid for a maximum period of eighteen months from the date of commencement of this Act: provided that a licence shall lapse one year after the date of commencement of this Act if the generator, transmitter, distributor or supplier concerned has not, within that time, applied for a

new licence under the provisions of this Act.

PART X:

RESOLUTION OF DISPUTES

Disputes

38. (1) The Authority must, if requested thereto by a party to a dispute, act as arbitrator in disputes between licensees or between a licensee and its consumer relating to-

- (a) the right to the supply of the goods and services provided by the regulated undertaking;
- (b) the duty to supply the goods and services provided by the regulated undertaking;
- (c) the tariffs, prices or charges at which the regulated good or service is supplied, following the terms and procedures established for this in the sector Act;
- (d) delays in or refusal to supply a regulated good or service; and
- (e) the quality of regulated good or service and the provision of services in connection therewith.

(2) The Authority may act as mediator in any other matter in respect of which a licensee or consumer requests the Authority to act as such.

(3) The Authority may, on approval of the parties involved, appoint a suitable person to act as mediator or arbitrator on its behalf and any action or decision of a person so appointed is deemed to be an action or decision of the Authority.

(4) The Authority must by rule in the gazette prescribe the procedure to be followed and mediation and arbitration fees to be paid in mediating and arbitrating disputes.

(5) The decision of the Authority in arbitrating a dispute, including a decision as to costs, is final and binding on the disputing parties.

PART XI:

ESTABLISHMENT OF THE ELECTRICITY DISPUTES TRIBUNAL AND COMPOSITION

Establishment

39. There is established the Electricity Disputes Tribunal.

Appointment of Chairperson and Vice-Chairperson

40. (1) The Minister, on the recommendations of the Judicial Service Commission shall appoint the Chairperson and Vice-Chairperson of the Tribunal.

(2) A person is not qualified to be appointed Chairperson or Vice-Chairperson of the Tribunal unless he or she is qualified to be a judge of the High Court.

Appointment of Other Members

41. (1) The other members of the Tribunal shall be appointed by the Minister on the recommendation of the Public Service Commission.

(2) A member of the Tribunal may be appointed on a part-time or full time basis.

(3) The tribunal shall comprise not less than three and not more than seven members.

(4) A person may only be appointed as a member of a Tribunal if the person is of high moral character and proven integrity and has proven experience in at least one of the following areas—

- (a) technical knowledge, either in the generation, transmission or distribution of electricity;
- (b) law or administration;
- (c) finance or economics;
- (d) the energy industry; or
- (e) environment.

(5) A member of the Tribunal shall hold office for five years and is eligible for re-appointment.

(6) Subject to this Act, a member of the Tribunal shall hold office on such terms and conditions as are prescribed in his letter of appointment.

(7) A person shall not be appointed a member of the Tribunal or be requested to give technical advice who—

- (a) (i) is a shareholder;
- (ii) is a member of the Board;
- (iii) is an employee, or
- (iv) is the holder of a license,
of any entity engaged in providing services to the electricity industry likely to cause a conflict of interest;
- (b) is an undischarged bankrupt or has made any arrangements with his creditors;
- (c) is incapacitated by mental or physical illness;
- (d) has been convicted of any offence involving moral turpitude in the Kingdom of Swaziland or elsewhere; or
- (e) is otherwise unable or unfit to discharge the functions of member of the Tribunal or to give technical advice.

(8) A person who is appointed a member of the Tribunal shall, before assuming the duties of his office, take and subscribe the Oath of Allegiance and the Judicial Oath in the Fourth Schedule to the Constitution.

- (9) This section applies to all members of the Tribunal.

Resignation or Removal of Members

42. (1) A member of the Tribunal may resign his office by notice in writing delivered to the Minister.

(2) The Minister may, in consultation with the Judicial Service Commission, remove from office a member of the Tribunal who-

- (a) is unable to perform the functions of his office arising from infirmity of body or mind;
- (b) misbehaves or conducts himself or herself in a manner unbecoming of the office of member of the Tribunal;
- (c) is incompetent;
- (d) becomes an undischarged bankrupt;
- (e) fails to disclose to the Tribunal any interest in any contract or matter before the Authority in accordance with section 40 (7); or
- (f) is convicted of an offence and sentenced to imprisonment for six months or more by a competent court in Swaziland or elsewhere.

Declaration of Interests

43. Where a member of the Tribunal as constituted for the purposes of a proceeding has any interest, pecuniary or otherwise, that could conflict with the proper performance of the member's functions, he or she shall disclose the interest to the parties to the proceeding and shall not take part in the proceeding or exercise any powers in relation to the matter to which the proceeding relates.

Operations and procedures

44. (1) The Tribunal shall have a seal which shall be judicially noticed.

(2) The seal of the Tribunal shall be affixed by or with the Authority of the Tribunal to such documents as are required by direction of the Chairperson to be sealed with the seal of the Tribunal.

(3) Subject to this Act, the Chairperson is responsible for ensuring the orderly and expeditious discharge of the business of the Tribunal.

(4) Without limiting the operation of subsection (1), the Chairperson shall give directions relating to -

- (a) the arrangement of the business of the Tribunal;
- (b) the places at which the Tribunal may sit generally; and
- (c) the procedure of the Tribunal at a particular place.

(5) The times and places of the hearings of the Tribunal shall be determined by the Chairperson with a view to securing a reasonable opportunity for applicants to appear before the Tribunal with as little inconvenience and expense as is practicable.

(6) The Tribunal shall be constituted for a proceeding when three of the members are present.

(7) The Chairperson shall preside at all sittings of the Tribunal, and in the absence of the Chairperson the Vice-Chairperson shall preside.

(8) The Tribunal may seek technical advice from persons whose specialised knowledge or experience may assist the Tribunal in its proceedings.

(9) A person giving technical advice shall cease to advise the Tribunal if he or she -

(a) is subsequently disqualified from appointment in accordance with section 40 (7);

(b) fails to disclose to the Tribunal any interest in the electricity sector or in a contract or other matter before the Authority or the Tribunal;

(c) subsequently acquires any interest in the electricity sector.

(10) A member of the Tribunal or a person giving technical advice to the Tribunal shall be paid an allowance that may be determined by the Minister.

Funds

45. The funds of the Tribunal shall consist of-

(a) moneys appropriated by Parliament for enabling the tribunal to perform its functions;

(b) grants or donations from sources acceptable to the Minister and the Minister responsible for finance.

Jurisdiction

46. (1) The Tribunal shall have jurisdiction to hear and determine all matters referred to it, relating to the electricity sector.

(2) For the avoidance of doubt, the jurisdiction of the Tribunal does not include the trial of any criminal offence or the hearing of any dispute that a licensee and any other party may have agreed to settle in accordance with their agreement.

(3) The Tribunal shall in the exercise of its jurisdiction under this Act have all the powers of the High Court.

Judgements and Appeal

47. (1) The Tribunal may, of its own motion or upon application by an aggrieved party, review its judgements and orders.

(2) Judgements and orders of the Tribunal shall be executed and enforced in the same manner as judgements and orders of the High Court.

(3) Any person aggrieved by a decision of the Tribunal may, within thirty days from the date of the decision or order, appeal to the High Court.

(4) The law applicable to appeals from the High Court in civil matters shall, with the necessary

modifications or other adjustments as the Chief Justice may direct, apply to appeals from the Tribunal to the High Court.

(5) Except in the case of an appeal under this section it shall not be lawful for any court or tribunal to entertain any action or proceeding of any nature for the purpose of questioning any judgement, finding, ruling, order or proceeding of the Tribunal.

(6) A person aggrieved by the decision of the High Court under this section may, within thirty days of the date of the decision, appeal to the Court of Appeal.

Powers

48. (1) The Tribunal shall meet as and when there is need to exercise its jurisdiction under this Act.

(2) A decision of the Tribunal shall be binding if it is supported by a majority of the members.

(3) A witness before the Tribunal shall have the same immunities, obligations and privileges as a witness before the High Court.

(4) The Tribunal shall conduct its proceedings without procedural formality but shall observe the rules of natural justice.

(5) Except as prescribed in this Act, the Tribunal may regulate its own procedure.

Registry

49. (1) The Tribunal shall have a Registrar who shall be a person qualified to be a Registrar of the High Court and who shall be appointed by the Minister in consultation with the Judicial Services Commission.

(2) The Registrar shall be responsible for the day to day administration of the Tribunal, the keeping of a public record of the discussions of the Tribunal and the processing of the papers of the Tribunal.

(3) The Tribunal shall have a Registry and such other staff as may be necessary for the functioning of the Registry.

PART XII:

GENERAL PROVISIONS

Termination of supply

50. (1) A licensee or supplier shall not, except for reasons beyond its control, reduce or discontinue the supply of electricity to a consumer unless-

- (a) the consumer is declared insolvent;
- (b) the consumer has failed to pay the agreed charges after having been given notice as set out in the conditions of supply;
- (c) the consumer fails to comply with any other conditions of supply;
- (d) the consumer sells or for other consideration disposes of electricity supplied to him by

a licensee without a licence granted in terms of this Act;

- (e) the consumer fraudulently abstracts or diverts electricity supplied to him by a licensee or supplier;
- (f) the consumer interferes with or attempts to interfere with any plant or equipment of the licensee or supplier used for supplying electricity to the consumer; or
- (g) the consumer has failed to comply with any existing health, safety and environmental legislation.

(2) Where a licensee is authorised under subsection (1) to discontinue a supply of electricity, the licensee or supplier may cut or disconnect any electric line through which supply is provided, and may refuse to reconnect such supply until-

- (a) the matter complained of has been rectified to the satisfaction of the licensee or supplier or the sums due to the licensee or supplier have been paid as the case may be; and
- (b) there have been paid to it -
 - (i) any expenses incurred by it in cutting off the supply
 - (ii) any expenses reasonably likely to be incurred by it in re-connecting the supply;
 - (iii) a deposit, as determined by the licensee or supplier, or such increase in the deposit already held by the licensee or supplier for security for the due payment of the consumer's electricity account; and
 - (iv) any prescribed fees.

Use of meters

51. (1) The value of supply shall be ascertained by means of an appropriate meter or appropriate meters fixed and connected with the service lines in such manner as may be prescribed by rule of the Authority.

(2) The register of such a meter shall be prima facie evidence in the absence of fraud of the value of supply.

(3) The Authority must by rule in the Government Gazette prescribe-

- (a) the acceptable technical standards and performance criteria for meters, including the limits of error of such meters;
- (b) the requirement of meters to be sealed by licensees, and the characteristics of such seals;
- (c) the obligation of consumers to pay for their meters and the reasonable charge thereof;
- (d) the testing of meters for accuracy, the obligation of the consumer to pay for such testing, and the rights of the consumer if the accuracy of the meter falls outside of the prescribed limits of error; and
- (e) the procedures to be followed for the removal of meters, the adjustment of meters or the alteration of meters, including the procedure to be followed by licensees in giving notice

to customers to enable such work to take place.

Acquisition of Land

52. Where a generation licensee, transmission licensee or a distribution licensee, or a proposed licensee for generation, transmission or distribution services, requires any land in connection with its obligations under its licence or a proposed licence, and it has failed to acquire such land with agreement of the landowner(s), such licensee may acquire the land in terms of the Acquisition of Property Act.

Works and Access Rights

53. (1) A licensee may, subject to the provisions of this Act, do the following-

- (a) place an electric line below ground across any land, and above ground across any land not covered by any buildings; and
- (b) for the purpose of supplying electricity to the occupier of premises which consist of a part and not the whole of a building, place an electric line or meter in, through or across any stair, passage or court providing a common means of access to the building, or elsewhere in or upon the building; and
- (c) utilise any land, building, wall or bridge for the support of an electric line; and
- (d) place any electrical plant on any land not covered by any buildings.

(2) Before exercising any of the powers referred to in subsection (1), a licensee shall serve notice in writing of its intentions to do so upon the owner or occupier of the land, building, wall or bridge on, in or in respect of which the power is to be exercised. Such notice shall be given at least thirty days before the licensee intends to commence with any of the works referred to in subsection (1) hereof.

(3) Where a licensee serves a notice under subsection (2) it shall cause a plan to be prepared sufficiently indicating the manner in and extent to which the power to which the notice relates is to be exercised; and any plan so prepared shall, at a place to be specified in the notice, be open to inspection at all reasonable times by or on behalf of any person on whom the notice has been served.

(4) If a person served with a notice under subsection (2) fails to give his consent to the exercise of the power to which the notice relates within fourteen days of the service of the notice upon him or attaches to his consent any terms or conditions to which the licensee objects, the Authority may give its consent to the exercise of the power, either unconditionally or subject to such terms and conditions not being monetary terms or conditions as to compensation, and the licensee may thereafter exercise the power accordingly.

(5) Where a licensee under the provisions of this section places any electric line or electrical plant in, on, over, along, across or in the vicinity of any road, railway, water-course, dam or airfield, it shall place such electrical line or electrical plant so as not to hinder, obstruct, or interfere with the passage along such road or railway or the use of such dam or airfield.

(6) The Authority may, at the request of a licensee or supplier, prohibit the erection of any building or structure or the planting of any tree or the doing of any other act whatsoever, which in the opinion of the Authority may interfere in any way with the exercise of any power by the licensee or supplier. The Authority shall serve notice in writing to the owner or occupier of the land

concerned of such prohibition.

(7) Any works must comply with legislation under the Swaziland Environment Authority.

Power to cut trees, enter on land etc

54. (1) A licensee, by its duly authorised servants or agents may enter upon any land or premises at all reasonable times and remain thereon as long as may be necessary for the purpose of effectually doing any act or thing as may reasonably be necessary for the purpose of any survey or preliminary investigation or incidental to the exercise of any power or the performance of any duty of the licensee, or for carrying into effect any of the objects of this Act and for any of the said purposes and for the protection of the works executed thereon to cut down, burn or clear away from the vicinity thereof, to such extent as may be necessary, any trees, shrubs, hedges, brushwood or grass and any other kind of vegetation growing upon any such land so entered upon.

(2) The power to enter any land or premises under subsection (1) shall include power to pass over or through any land or premises where it is necessary to do so in order to reach some other land or premises on or in respect of which it is intended to do any thing, carry out any purpose or exercise any power conferred upon a licensee by this Act.

(3) The powers under this section if exercised for the purpose of carrying out any surveys and investigations shall include power to dig or bore into the subsoil.

(4) In exercise of its powers under this section, except in a case of emergency or for the purpose of inspecting, maintaining, preventing interference with the safe and proper operation of, or repairing any of a licensee's electric lines or installations, the licensee shall serve notice in writing of its intentions upon the occupier or controlling Authority of the land, building, or other structure on, in or in respect of which the power is to be exercised; and if the person so served fails to give his consent to the exercise of the power to which the notice relates within seven days of the service of the notice upon him or attaches to his consent any terms or conditions to which the licensee objects, the Authority may give its consent to the exercise of the power, subject to such terms and conditions (not being pecuniary terms or conditions as to compensation except in so far as may be authorised by this Act) as it deems fit, and the licensee may thereupon exercise the power accordingly.

(5) In exercise of its powers under this section and under sections 53, 55, 56, 57 and 68, the licensee shall do as little damage as may be practicable and make reasonable compensation to any interested person for all damage sustained by him by reason or in consequence of the exercise of such powers:

Provided that no compensation shall be payable in respect of a tree, shrub, hedge, brushwood or grass or any other kind of vegetation cut down, burnt or cleared away by the licensee under this Act, where such tree, shrub, hedge, brushwood, grass or other kind of vegetation was not in existence at the time of the placing of the electric line on account of which the cutting, burning or clearing away was carried out:

Provided further that no compensation shall be payable in respect of the removal, demolition or cutting down as the case may be of any building, structure or tree or the taking of any of the other steps referred to in subsection 49 (6).

(6) The amount of such compensation shall in the event of disagreement be determined by arbitration.

Moving of lines etc

55. (1) The Authority may make an order requiring a licensee to alter the position of any of its electric lines or any pole, strut or other support for an electric line, which has been placed on or in or affixed to any land, building, wall or bridge.

(2) An order of the kind mentioned in this section may –

- (a) be made either of the Authority's own motion or on the application of the owner, occupier or controlling Authority of the land, building, wall or bridge to which it relates; and
- (b) be made subject to such terms and conditions (but subject to paragraph (c), not being pecuniary terms or conditions as to compensation) as the Authority deems fit; and
- (c) Where it is not made of the Authority's own motion, contain provisions requiring the person on whose application it is made to refund to the licensee the whole or a specified part of the cost of carrying out the order.

Power to break up roads etc

56. (1) Subject to this Act, a licensee may, for the purpose of constructing, erecting, placing, maintaining, repairing, altering or removing electric lines or apparatus –

- (a) open and break up the soil and pavement of any road or bridge; and
- (b) open or break up any sewer, drain or tunnel under such road or bridge.

(2) The licensee, before executing any works (not being emergency works or minor works) which necessitate the exercise of any of the powers mentioned in subsection (1) shall –

- (a) send to the person having the management or control of any road, bridge, sewer, drain or tunnel likely to be affected by the exercise of such power (hereinafter in this section and in sections 56 and 57 referred to as the "authorised person") notice in writing of its intention to execute such works together with a plan thereof; and
- (b) furnish the authorised person with such other information as it may reasonably require in connection with the proposed works.

(3) Where the authorised person –

- (a) disapproves a plan sent to it under subsection (2); or
 - (b) fails to come to a decision on the plan within sixty days of receiving it; or
 - (c) approves the plan subject to modifications or conditions to which the licensee objects,
- the Authority may, on the application of the licensee, approve the plan, subject to such conditions (not being pecuniary conditions or conditions as to compensation) or modifications as it thinks fit.

(4) The licensee shall not begin any works to which this section applies (other than emergency works) unless –

- (a) in cases where it is required to furnish the authorised person with a plan of the works, the plan has been approved under this section by the authorised person or the Authority, as the case may be, and the licensee has, after such approval, given the authorised person not less than seven days' notice of its intention to begin the works; and
 - (b) in the case of minor works, the licensee has given the authorised person not less than seven days notice of its intention to begin the works.
- (5) Where it executes works to which this section applies, the licensee shall –
- (a) Execute the works (not being emergency works or minor works) in accordance with the plan approved under this section by the authorised person or the Authority, as the case may be; and
 - (b) Carry on and complete the works with all such dispatch as is reasonably practicable; and
 - (c) Except in the case of emergency works or minor works, afford the authorised person reasonable facilities for supervising the opening and breaking up the reinstatement of roads, bridges, sewers, drains and tunnels; and
 - (d) Ensure at its own expense that –
 - (i) so long as a road or bridge is open or broken up it is adequately protected and guarded, and lighted in such manner as to give warning to the public during the hours of darkness; and
 - (ii) no greater width or length of a road or bridge than is reasonably necessary is open or broken up at any time; and
 - (iii) there is no greater obstruction of traffic on any road or bridge than is reasonably necessary; and
 - (iv) reinstate and make good any road or bridge, broken or opened up in connection with the works, and keep the same in good repair for three months after reinstatement and making good, and, for such further time, if any, not exceeding six months in all, as the soil broken up shall continue to subside; and
 - (v) reinstate and make good any sewer, drain or tunnel opened or broken up in connection with the works.
- (6) In the case of works to which this section applies which are emergency works, the licensee –
- (a) may execute the works without submitting a plan thereof to the authorised person; and
 - (b) shall as soon as may be after such execution furnish the authorised person with such a plan.
- (7) Where an authorised person –
- (a) Objects to any works executed by the licensee which have been executed in contravention of any provision of subsections (2), (3) and (4), or which are emergency works; or
 - (b) Complains that the licensee has failed or is failing to fulfil any obligations imposed

upon it under subsection (5),

it may, after giving the licensee notice of the objection or complaint and an opportunity to enter into an agreement with it for meeting the objections or complaint, refer the matter to the Authority, who may approve the works or dismiss the complaint or give such other directions (including directions for the works to be altered or for reinstatement to be carried out by the licensee at its own expense or by the authorised person at the licensee's expense) as it thinks fit.

Alteration of pipes etc

57. (1) A licensee may by notice in writing call upon any authorised person permanently or temporarily to alter at the expense of the licensee the position of any pipe, wire, or drain (except a main drain) controlled by such authorised person which is likely to interfere with the exercise of the licensee's powers under this Act, and the authorised person may in like manner call upon the licensee permanently or temporarily to alter at the expense of the authorised person the position of any electric line or apparatus of the licensee which may interfere with the exercise of the lawful powers of such authorised person.

(2) Where the party on which such notice has been served does not within a reasonable time agree to carry out the alteration called for by the notice, the Authority on the application of the party serving it may, and subject to such terms and conditions as it thinks fit, (not being pecuniary terms or conditions as to compensation), authorise the party serving the notice to make the alteration at its own expense.

(3) If the Authority is satisfied that as a result of the exercise by the authorised person of its lawful powers it is necessary for the licensee to move any of its electric lines or apparatus, the Authority may on the application of the licensee require the authorised person to defray the cost of such removal.

(4) In this section "main drain" means a sewer or drain used for the drainage of two or more buildings which are not in the same curtilage

Works which affect other lawful works

58. (1) Where, in exercise of its powers, a licensee's works are likely to affect any lawfully placed sewer, drain, pipe or wire belonging to or controlled by an authorised person, or where, in exercise of any lawful powers in relation to the laying of a sewer, drain, pipe or wire, the works of any authorised person are likely to affect any lawfully placed electric line, distributing main or apparatus belonging to the licensee, then subject to the provisions of this section, the party executing the works hereinafter in this section referred to as the "user" shall –

(a) not begin any works until it has given to the party controlling or owning the sewer, drain, pipe, wire, line, distributing main or apparatus likely to be affected by such works (hereinafter in this section referred to as the "owner") notice of its intention to execute the works, including a plan showing the nature of the works and the place where it intends to execute them, and until seven days have expired from the date on which notice was given; and

(b) during the execution of any works give to the owner reasonable facilities for supervising the execution of the works; and

(c) in the execution of any work comply with any requirements as to the nature of the works or as to the things to be done or avoided in the execution thereof which is made by the owner and compliance with which is reasonably necessary for the protection of any sewer, drain, pipe, wire,

line, distributing main or apparatus for the access thereto and is reasonably practicable having regard to the time when the requirement is made; and

- (d) in the case of any works which include tunnelling or boring under any sewer, drain, wire, line or apparatus secure that there is proper temporary support for the sewer, drain, pipe, wire, line or apparatus during the execution of the works and that a permanent foundation is provided therefore; and
- (e) in the case where the user is the licensee and the works include the laying of an electric line crossing or near any sewer, drain, pipe or wire, secure that such electric line is so laid as not to be capable of touching such sewer, drain, pipe or wire and is effectively insulated therefrom; and
- (f) in the case where the user is an authorised person and the works include the laying of a sewer, drain, pipe or wire across or near any electric line, secure that such sewer, drain, pipe or wire is so laid as not to be capable of touching such electric line, and is effectively insulated therefrom.

(2) Subsection (1) (a), (b) and (c) shall not apply in the case of minor works.

(3) In the case of emergency works the user shall be deemed to have complied with the requirements of subsection (1) if –

- (a) it takes all reasonably practicable steps towards satisfying those requirements as are consistent with meeting the circumstances for which those works are required; and
- (b) it supplies the owner as soon as practically possible with information reasonably sufficient to indicate the nature of the works which it has executed.

(4) Where the owner complains that the user has failed or is failing to fulfil any obligation imposed upon him under this section, he or she may, after giving the user notice of the complaint and an opportunity to enter into an agreement with him for meeting it, refer the matter to the Authority who may dismiss the complaint or give such directions thereon (including directions for works to be executed or for works already executed to be altered either by the user at its own expenses or by the owner at the user's expense) as it thinks fit.

Health, safety and environmental matters

59. Installations for the generation, transmission, distribution and supply of electricity, as well as alterations or extensions to existing installations, shall be built and operated in accordance with legislation on health, safety and environmental standards.

Other agreements

60. (1) No agreement may contravene any –

- (a) provision of this Act; or
- (b) rule or directive made or issued under this Act.

Application of Mines, Works and Machinery Act, 1960

61. Where an inspector of machinery, acting in terms of the Mines, Works and Machinery Act, 1960, tests a licensee's electrical installations or machinery, the licensee shall be held responsible for

any interruption in the supply of electricity which may be occasioned by or required by the inspector or machinery for the purpose of the test.

PART XIII:

MISCELLANEOUS AND SUPPLEMENTAL

Licensee's lines not subject to execution, etc.

62. (1) Notwithstanding the provisions of any law, any electrical plant or electrical fittings belonging to a licensee which are placed in or upon any premises not in the possession of the licensee for the purpose of supplying electricity under this Act –

- (a) shall not be subject to attachment at the suit of any person, nor be subject to a landlord's hypothec for rent, nor be subject to attachment or seizure by the trustee of an insolvent person in whose possession they may be; and
- (b) shall at all times continue to be the property of and removable by the licensee, whether or not they are fixed or fastened to any part of the premises in or upon which they are placed or to the soil under such premises.

(2) Nothing in this section shall affect the amount of the assessment for rating of any premises on which any electrical plant or electrical fittings belonging to a licensee are fixed.

(3) The fact that a consumer has paid to a licensee the cost, or a sum representing the cost, of providing any electrical line or has otherwise paid any sum to the licensee to meet the capital cost or part of the capital cost of providing him with a supply of electricity shall not confer upon the consumer any right of property or ownership in any electrical plant or electrical fittings of the licensee.

Stamp duty.

63. Electricity shall be deemed to be goods, or merchandise for the purpose of exemption (a) of Item 2 of the Schedule to the Stamp Duties Act, No. 38 of 1931.

Powers of Minister

64. (1) The Minister has the following powers in terms of this Act-

- (a) to set out requirements obliging licensees to facilitate co-ordination with existing or future electricity undertakings in terms of section 3(3)(b) of this Act;
- (b) make regulations to give effect to any provision of this Act as is set out in terms of section 64 (1) of this Act; and
- (c) amend Schedule II of this Act by adjusting the criteria for exemption from the requirements of licensees to hold licences.

Regulations.

65. (1) The Minister is empowered to make regulations, in consultation with the Authority, to give effect to any of the provisions of this Act and without prejudice to the generally of such power may make regulations –

- (a) for securing that the distribution and supply of electricity are regular, safe and efficient;
 - (b) for protecting the public in so far as practicable from any personal injury, fire or other dangers arising from the use of electricity;
 - (c) prioritisation of fuels and technologies for electricity supply;
 - (d) prescribing anything (including fees) to be prescribed under this Act;
 - (e) prohibiting, controlling or restricting the importation, disposal, sale or exposure for sale of defective or dangerous electrical fittings;
 - (f) providing for the registration and control of electricians;
 - (g) for the testing of meters and the adjustment of accounts where meters are found to be defective;
 - (h) prescribing the rate of interest, or a mechanism to determine the rate of interest, to be charged by licensees and suppliers on the late payment of electricity accounts, and the rate of interest, or a mechanism to determine the rate of interest, payable by licensees or suppliers on deposits held by such licensees on behalf of customers;
 - (i) prescribing reconnection fees to be payable by consumers to licensees and suppliers to reconnect the supply of electricity after such supply has been terminated in terms of subsection 49 (1);
 - (j) for the regulation of off-grid and mini-grid supplies of electricity, including the economic and technical regulation of such supplies, and the granting of an exclusive right to a particular licensee or supplier to supply electricity by way of off-grid and mini-grid supplies in respect of particular geographic areas of the Kingdom of Swaziland.
 - (k) for the exemption of any off-grid and mini-grid supply schemes from the regulatory requirements as set out in subsection (j) hereof;
 - (l) prescribing fees or levies payable by licensees, suppliers, end-users of electricity or customers for the funding of rural electrification programmes, renewable energy programmes, energy efficiency programmes, and demand side management programmes as approved by the Minister;
 - (m) providing for matters incidental to and connected with the matters mentioned in the preceding paragraphs of this subsection.
- (2) Without prejudice to the generality of subsection (1) –
- (a) regulations made under the provisions of paragraph (a) of that subsection may empower the licensee to discontinue the supply of electricity to a consumer, a licensee or a person whose electrical plant or electrical fittings are in the opinion of the licensee defective or dangerous;
 - (b) regulations made under the provisions of paragraph (b) of that subsection may prescribe a fee to be charged by a licensee for inspecting electrical plant in connection with an application for or the grant of a licence, and may authorise such inspection;
 - (c) regulations made under the provisions of paragraph (c) of that subsection may-

- (i) prohibit, control or restrict the importation, disposal, sale or exposure for sale of any electrical fittings unless it conforms with such standard or descriptions as are specified in such regulations; and
 - (ii) empower a court to seize and dispose of any electrical fittings in respect of which any person has been convicted of an offence under the provisions of those regulations; and
- (d) regulations made under the provisions of paragraph (d) of that subsection may contain provision for -
- (i) establishing a register of electricians and a register thereof;
 - (ii) admitting persons to and removing persons from the register;
 - (iii) prohibiting unregistered persons from working as electricians;
 - (iv) issuing licenses to registered electricians; and
- (5) charging fees for an admission to the register and the issue of a licence.

Savings

66. Anything done in terms of the provisions of the Electricity Act, 1963, prior to the commencement of this Act, and which may be done in terms of the provisions of this Act is deemed to have been done in terms of this Act.

Repeal

67. The Electricity Act No. 10 of 1963 is hereby repealed.

LEGAL NOTICE NO. 76 OF 2005

THE INCOME TAX ORDER, 1975
(Order No. 21 of 1975)INCOME TAX: A DIRECTIVE TO ALL EMPLOYERS ON THE TAX TREATMENT
OF PART-TIME EMPLOYEES FOR THE PURPOSES OF EMPLOYEES'
TAX UNDER THE SECOND SCHEDULE

In exercise of the powers conferred by paragraph 9(1) of the Second Schedule to the Income Tax Order, 1975, as amended, the Commissioner of Taxes hereby issues the following directive -

Citation and Commencement

1. This directive may be cited as the tax treatment of part-time employees for the purposes of employees' tax under the Second Schedule to the Order directive, 2005 and shall come into effect on 1 July 2005.

Rates of withholding tax applicable to part-time employees

2. This rates of withholding tax prescribed hereunder shall apply in the determination of employees' tax to be deducted on any amount payable by way of remuneration to a part-time employee in any year of assessment -

RATES OF WITHHOLDING TAX
PART-TIME EMPLOYEES

REMUNERATION		RATE OF WITHHOLDING TAX
Exceeds	But does not exceed	
E	E	
0	2 500	15%
2 500	3 750	20%
3 750	5 000	25%
5 000	6 250	30%
6 250		33%

Note that when applying these rates the rebates should not be taken into account. Part-time employees are still required to file returns of income at the end of a year assessment, the Final Deduction System notwithstanding. Tax rebates will be granted on assessment in these cases. Employees' tax certificates(PAYE 5) must be issued to such employees within the stipulated period in accordance with the requirements of paragraph 13 of the Second Schedule.

Definition of part-time employee

3. The expression "*part-time employee*", for the purposes of employees' tax, is defined to mean a person who is not in your full-time employ and who is not remunerated as a full-time employee for any services rendered.

What constitutes part-time remuneration?

4. The part-time remuneration includes the following -
- (a) Casual payments for irregular services rendered,
 - (b) Fees paid to part-time lectures,
 - (c) Honoraria paid to office-bearers of bodies, clubs, societies etc,
 - (d) Remuneration paid for occasional services rendered, and
 - (e) Any payment that cannot be regarded as full-time remuneration.

Examples

- (i) Mr. A. works for firm B during the day and acts as cashier for firm C for a few hours in the evening. He is regarded as a part-time employee of firm C.
- (ii) Mr. Z. is a clerk at an insurance company and receives a fixed monthly salary. In his spare-time he canvasses business for his company and is paid separately from his salary for such work. The commission he receives for spare-time work is regarded as - "part-time remuneration" and tax should be deducted therefrom according to the withholding rates prescribed in paragraph 2 above.

If the commission is paid with his regular monthly salary, it forms part of his monthly remuneration and tax should be deducted according to the monthly table contained in the prescribed Employees' Tax Deduction Table issued by the Commissioner in accordance with paragraph 9(1) of the Second Schedule.

What does not constitute part-time remuneration

5. Notwithstanding paragraph 4 above, the part-time remuneration of an employee does not include -

- (a) Fees paid to professional persons such as medical practitioners, attorneys, advocates, accountants, auditors, architects, quantity surveyors etc., that is, fees paid to a person for services rendered by him in the course of any trade conducted by him.
- (b) Remuneration paid to a person whose contract of employment requires that person to work during either the morning or afternoon only of each working day.

Note that Pensions are not regarded as part-time remuneration irrespective of whether or not the pensioner receives any other remuneration.

If the name and address of a part-time employee is known, such employee need not complete Form PAYE 2.

Where there is doubt as to whether a payment should be regarded a part-time or full-time remuneration, the commissioner of Taxes should be consulted.

Rate of withholding tax on allowances, fees any other remuneration payable to Board Members or members of other similar Bodies

6. (1) Any payments paid to members of the aforesaid Boards that come within the purview of the definition of "*remuneration*" as occurring in paragraph 1 of the Second Schedule to the Order are subject to the deduction of employee's tax.

(2) Furthermore, for the purposes of the Second Schedule the term "*employee*" is defined to mean any person, excepting a company, who in respect of any employment, office or appointment, receives remuneration from an employer or to whom remuneration accrues. It is common cause that a board member or any other similar member does come within the meaning of the word "*employee*" in accordance with the definition in the Second Schedule to the Order, since a director of a company, in his capacity as such holds an office. As regards the term "*office*" as contained in the definition of employee, the courts have held the term to be an office or appointment which was a subsisting, permanent, substantive position, which had an existence independent of the person who filled it, which went on and was filled in succession by successive holders.

(3) Premised on the foregoing all employers are directed to effect the withholding of employees' tax (PAYE) on allowances, fees and any other remuneration payable to board members - members of Board of Directors/Members of Statutory or other similar Boards/Members of Executive Committee of NGO's or Councils of similar bodies or entries. The Withholding rate of tax that must be applied on the amounts payable to such persons is 33%, which is the top marginal rate applicable to individuals. The withholding rate takes into account that such persons may have other sources of income in addition to their regular income.

(4) Since all amounts that fall within the ambit of the definition of "*remuneration*" as so defined, payable to the members of Board of directors or similar entites etc are subject to the withholding of employees' tax in accordance with the requirements of the provisions of the Second Schedule to the Order, Employees' tax certificates (PAYE 5) must be issued to such employees within the stipulated period in accordance with the requirements of paragraph 13 of the Second Schedule.

Failure to withhold employees' tax

7 In accordance with paragraph 5(1), Part II of the Second Schedule to the Order any employer, who fails to make deduction or withhold the full amount of employees' tax, shall be personally liable for the payment of the amount that he fails to deduct or withhold.

Visiting Entertainers, sportspersons and other professionals

8. (1) In the case of a non-resident entertainer, such as a theatre, motion picture, radio, or television artiste, or a musician, or as a sportsperson, the income derived from that person's activities as such exercised in Swaziland is taxable, and is subject to the withholding tax of 15% on the gross remuneration or gross receipts accrued to or payable to such persons (vide section 32A).

(2) In the case of income derived by a non-resident professional in respect of professional services or other activities if an independent character performed or rendered in Swaziland such income is taxable in Swaziland and is subject to a withholding tax of 15% on the gross amount in accordance with the provisions of section 59A of the Order.

For the purposes of subparagraph (2), the term "*professional services*" includes independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers (attorneys and advocates), engineers, quantity surveyors, architects, dentists, accountants and auditors etc.

(3) The income or remuneration paid to such persons (mentioned in subparagraphs (1) and (2)) is not subject to this directive or the provisions of the Second Schedule with regard to the withholding of employees' tax from remuneration.

P N MSIBI
COMMISSIONER OF TAXES

Mbabane
17 May 2005

LEGAL NOTICE NO. 77 OF 2005

THE CONSTITUTION OF SWAZILAND, 1968
(Act No. 50 of 1968)

APPOINTMENT OF ATTORNEY-GENERAL NOTICE, 2005
(Under Section 119)

In exercise of the powers conferred by Section 119 of the Constitution of Swaziland, 1968, I,
MSWATI III, KING AND NGWENYAMA OF SWAZILAND, appoint -

PHESHEYA MBONGENI DLAMINI

as Attorney-General of the Kingdom of Swaziland for the period 3rd May 2005 to 31st July 2005.

THUS DONE UNDER MY HAND AT LOZITH'EHLEZI ON THIS 27TH OF MAY, 2005.

MSWATI III
KING AND NGWENYAMA OF SWAZILAND

LEGAL NOTICE NO. 78 OF 2005

THE CONSTITUTION OF SWAZILAND, 1968
(Act No. 50 of 1968)

APPOINTMENT OF ATTORNEY-GENERAL NOTICE, 2005
(Under Section 119)

In exercise of the powers conferred by Section 119 of the Constitution of Swaziland, 1968, I,
MSWATI III, KING AND NGWENYAMA OF SWAZILAND, appoint -

JAMES MAJAHENKHABA DLAMINI

as Attorney-General of the Kingdom of Swaziland for a period of five (5) years with effect from 31st August, 2005.

THUS DONE UNDER MY HAND AT LOZITH'EHLEZI ON THIS 27TH OF MAY, 2005.

MSWATI III
KING AND NGWENYAMA OF SWAZILAND

The Government Printer, Mbabane