

THE CRIMES ACT

Date of commencement: As set out in respective Parts.

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An Act to suppress gambling, to make certain provisions with regard to the commission of the crimes of perjury, bribery, and immorality, to prevent the unauthorised wearing or use of uniforms, to declare the law as to certain other criminal offences, and to make provision against the establishment of betting houses and for the prevention of certain other crimes.

PART I

PRELIMINARY

Short title.

1. This Act may be cited as the Crimes Act, 1889.

PART II

GAMING AND BETTING

Chapter 1

*GAMING

Date of commencement: 31st May, 1889.

Unlawful to keep any gambling house.

2. Any person who keeps or visits a gambling house or gaming table within Swaziland shall be guilty of an offence.

Right to enter and search.

3. A Law Officer, Justice of the Peace, Regional Secretary or Police Officer, or any person duly authorised under signature of a Law Officer, with such assistance as he shall deem necessary, may at all times enter and search any house, tent, room, vehicle or other place of meeting, which he has good reason to believe is a gambling house, and, if, upon request made by such Law Officer, Justice, Regional Secretary, policeman or other person so authorised, specifying his name, capacity and the reasons why he wishes to be admitted into such house or other place, such house or other place is not forthwith opened, such officer or policeman may break open such house or other place, or cause it to be broken open, and may enter and search it by force, and the owner or occupier thereof who, for whatever reason, does not open it or refuses to open it upon request made in the prescribed manner, by such officer or policeman or other person so authorised shall be guilty of an offence and liable, on conviction to a fine not exceeding two hundred emalangeni, or imprisonment for a period not exceeding six months, in addition to any further punishment to which such person may be liable under this Chapter. (Amended L.I/1965.)

* See exemption of gaming rooms from provision of Laws relating to Gaming, Betting or Lotteries; and the Casino Act, No. 56 of 1963 (section 3).

Gambling house defined.

4. Every house, tent, room, vehicle or other place of meeting shall be deemed to be a gambling house in which, and every article or thing shall be deemed to be a gaming table, on which, gaming appliances are found, or in which or whereon it appears that a bank is being kept, that is to say, in which or whereon the players stake money against the money of the occupier or owner of such house or the table or against money supplied by any person, bank or firm or mutual association, as a fund or as capital for the purpose of gambling, or in which or on which Rouge et Noir, Roulette, Faro or any other game is being played, by which the owner or occupier of such house or the table of any person, or bank or firm, or partnership with shares, stakes money against the money of the players.

Who is deemed to be a keeper.

5. Every holder of a gambling house, whether as owner, holder, attendant or in any other capacity whatsoever, and every person charged with the supervision or the direction of play, or acting as banker, dealer, croupier or in any other capacity, and every person acting as porter, doorkeeper or servant, or filling any other office in any gambling house, or at any gaming table, shall be deemed to be the keeper of a gambling house or gaming table.

Visitors.

6. Every person found in a gambling house or at a gaming table, who is not the holder of such gambling house or gaming table, shall be deemed to be visiting such gambling house or gaming table with the object of playing.

Gaming in open places.

7. Any person who bets in any street or open place or vehicle or plays therein at any game for a wager or stake, or who therein plays at or with any table or instrument of gaming, shall be guilty of an offence and liable on a first conviction of such offence to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding three months and for a second or subsequent conviction thereof, to a fine not exceeding five hundred emalangeni or imprisonment not exceeding twelve months or both:

Provided that this section shall not extend to a bet placed on any race course or other grounds used for horse or other racing, or for any lawful sport, game, or exercise on any day on which any such race, sport, game or exercise is being held, played or carried on where the bet relates to such race, sport, game or exercise held, played or carried on, on such day. (Added A.18/1971.)

Penalty against keepers.

8. A person who is convicted of keeping a gambling house or gaming table shall be punished for the first such offence by forfeiture of all moneys, gaming tables, implements and appliances found in such house or in the possession of any keeper thereof, in addition to a fine not exceeding one hundred emalangeni, or in default of payment thereof, imprisonment not exceeding three months; for a second such offence by imprisonment for not less than three nor more than twelve months, in addition to such forfeiture; and for a third or subsequent offence by imprisonment not exceeding three years, in addition to such forfeiture.

Penalty for fraud.

9. Any person who, by fraud or any illegal trick, pretext or artifice of whatsoever kind, with cards, tables or any other game, wins any money or any article of value from any person, or any person who in any way whatsoever, conspires with others to induce another person to commence play, in order by so doing to win his money or articles of value, by any sort of illegal game, shall be deemed to have committed the offence of obtaining money or goods under false pretences, and shall be sentenced for the first such offence, to imprisonment not exceeding three months; for the second such offence, to imprisonment not exceeding six months; and for the third such offence to imprisonment not exceeding two years:

Provided that the Attorney-General, or his lawful representative, shall at all times have the right to require the person who has lost at such play, or one or more of the accomplices to give evidence for the prosecution although they may have joined in such play.

Forfeiture of instruments, moneys, etc.

10. Upon the conviction of any person under this Part, all tables, instruments of gaming money and securities for money seized shall be forfeited to the Government and the presiding judicial officer before whom such person has been convicted may order the destruction of any such tables and instruments of gaming. (Added A.18/1971.)

Games of skill.

11. The court shall decide whether the game, with reference to which a complaint is made, is a game of chance, or one to be decided by science or skill, and if it appears that the amount played for in a game of science or skill is unreasonably high, the court shall declare such game illegal, and to be a game of chance for the purposes of this Chapter.

Penalties for visitors.

12. Any person who is shown to have visited a gambling house or gaming table with the object of playing shall be liable for the first such offence, to a fine not exceeding ten emalangeni or in default of payment thereof imprisonment for one week; for a second such offence, a fine not exceeding twenty emalangeni, or in default of payment thereof, imprisonment for two weeks; and for a third such or subsequent offence, to a fine not exceeding forty emalangeni or in default of payment thereof imprisonment for six weeks.

Informant.

13. Any person who gives information which leads to a conviction and the infliction of any fine or forfeiture under this Chapter shall be entitled to receive half of the moneys forfeited or fines inflicted or received.

Chapter 2

BETTING HOUSES

*Date of commencement: 27th November. 1901.**Prohibition of the keeping of betting houses.*

14. No house, office, room, or other place shall be opened, kept or used with intent that the owner, occupier or keeper thereof, or any person procured or employed by or acting on his behalf, or any person having the care or management, or in any manner conducting the business thereof, may bet or wager with persons resorting thereto, or being in any manner in communication therewith, or for the purpose of any money or valuable thing being received by or on behalf of or expressly or impliedly promised, undertaken or agreed to be paid or given to such owner, occupier, keeper or person, as or for the consideration for any assurance undertaking, promise or agreement, express or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency.

Penalties for keeping, etc., betting houses.

15. Any person who is the owner or occupier of any house, office, room or other place, and who opens, keeps or uses it for any purpose referred to in section 14, and any person who is the owner or occupier of any house, room, office, or other place who knowingly and wilfully permits it to be opened, kept or used by any other person for any such purpose, and any person having the care or management of, or in any manner assisting in conducting the business of any house, office, room, or place opened, kept or used for any such purpose shall be guilty of an offence and on conviction before any magistrate be liable to imprisonment, not exceeding six months, or to a fine not exceeding two hundred emalangeni or in default of payment thereof, imprisonment not exceeding six months.

Penalties on receiving money, etc., for purposes of bets.

16. Any person who is the owner or occupier of any house, office, room, or place opened, kept, or used for any such purpose, or any person acting for or on his behalf, or any person having the care or management, or in any manner assisting in conducting the business thereof, who receives, directly or indirectly, or to whom if expressly or impliedly promised, undertaken, or agreed to be paid or given any money or valuable thing as a deposit on or security for any bet or wager on condition of paying any sum of money or other valuable thing on the happening of any event or contingency of or relating to a horse race, or any other race, or any fight, game, sport, or exercise, or as for the consideration of any assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or valuable thing on any such event or contingency, and any person giving any acknowledgment note, security, or draft on the receipt of any money or valuable thing so paid or given, or promised, undertaken, or agreed to be paid or given, purporting or intended to entitle the bearer or any other person to receive any money or valuable thing on the happening of any such event or contingency, shall be guilty of an offence and on conviction before a magistrate, be liable to imprisonment not exceeding three months, or to a fine not exceeding one hundred emalangeni, or in default of payment thereof, imprisonment not exceeding three months.

Recovery of moneys so paid.

17. Any money or valuable thing received by any such person as a deposit on any bet, or as or for the consideration for any such assurance, undertaking, promise or agreement, shall be deemed to have been received to or for the use of the person from whom it was received, and such money or valuable thing, or the value thereof, may be recovered accordingly with full costs in any court.

Penalty on publication, etc., of betting house advertisements.

18. Any person exhibiting or publishing or causing to be exhibited or published any placard, handbill, card, writing, sign, or advertisement, whereby it is made to appear that any house, office, room, or place is opened, kept, or used for the purpose of making bets or wagers in such manner, or for the purpose of exhibiting lists for betting, or with intent to induce any person to resort to or in any manner get into communication with such house, office, room or place, for the purpose of making bets or wagers in such manner, or any person who, on behalf of such owner or occupier, invites other persons to resort thereto, or in any manner to get into communication therewith for the purpose of making bets or wagers in such manner, shall be guilty of an offence and on conviction thereof before a magistrate, be liable to imprisonment not exceeding two months, or to a fine not exceeding fifty emalangeni, or in default of payment thereof imprisonment not exceeding two months.

Penalties on sending letters, circulars, etc, giving information and advice as to bets.

19. If any letter, circular, telegram, placard, handbill, card, or advertisement is sent, exhibited, or published:

- (a) whereby it is made to appear that any person either in Swaziland or elsewhere will on application give information or advice for the purpose of or with respect to any such bet or wager or any such event or contingency, or will make on behalf of any other person any such bet or wager;
- (b) with intent to induce any person to apply to any house, office, room, or place, or to any person with a view to obtaining information or advice for the purpose of any such bet or wager or in respect to any such event or contingency; or
- (c) inviting any person to make or take any share in or connection with any such bet or wager;

every person sending, exhibiting, or publishing it or causing it to be sent, exhibited, or published, shall be guilty of an offence and on conviction liable to the penalties provided in section 18.

Half the penalty to go to the informer.

20. One-half of every pecuniary penalty ordered to be paid under this Chapter may be paid to any person who gives information leading to conviction and to the infliction of any such penalty.

Powers of magistrate on complaints received or on reasonable suspicion of existence of betting house.

21. Any magistrate, upon complaint made before him on oath that there is reason to suspect any house, office, room, or place to be kept or used as a betting house or office contrary to this Chapter, may give authority by special warrant under his hand, to any police officer to enter with such assistance as may be found necessary, into such house, office, room, or place, and if necessary to use force for making such entry, and to arrest, search, and bring before a magistrate all persons found therein, and to seize all lists, cards, or other documents relating to racing or betting found in such house or premises.

Saving of stakes held for winner of lawful sport.

22. This Chapter shall not apply to any person receiving or holding any money or valuable thing by way of stakes or deposit to be paid or given to the winner of any race or lawful sport, game or exercise, or to the owner of any horse engaged in any race.

Saving of places used for lawful sport.

23. This Chapter shall not apply to any owner or occupier of any race-course or other ground used for horse or other racing, or for any lawful sport, game or exercise, or to any person employed by or acting on behalf of such owner or occupier, opening, keeping or using on any day on which any recognised race, sport, game or exercise is being held, played or carried on, any building, shed, or other erection or enclosed space on or within any such race-course or other ground for any of the purposes mentioned in section 14, and no such building, shed, or other erection or enclosed space on or within any such race-course or other ground shall on any such day be deemed to be a house, office, room or other place within the meaning of this Chapter:

Provided that the "event" or "contingency" mentioned in section 14 relate to such race, sport, game or exercise, held, played or carried on, on any such day.

PART III

PERJURY

Date of commencement: 11th July, 1893.

Perjury.

24. Anyone who, whether in or out of court, makes an affidavit, or other solemn declaration declared by law to be the equivalent of an affidavit, before a regional secretary, justice of the peace or any other competent person, which appears to have been falsely made and at variance with the truth, and maliciously or with the intention of injuring another or benefitting himself, shall be deemed to have committed the crime of perjury, and shall be punished accordingly.

PART IV

(Repealed K.O-I-C. 19/1993.)

25 – 30. (Repealed K/O-I-C. 19/1993.)

PART V

IMMORALITY AND OFFENCES IN PUBLIC PLACES OR PLACES
OF PUBLIC RESORT AND CONTROL OF PLACES OF
PUBLIC RESORT

Date of commencement: 1st August. 1903.

Interpretation.

31. In this Part unless the context otherwise requires —

“brothel” includes any house, or place kept or used for the purpose of prostitution, or for persons to visit for unlawful carnal connection, or for any other lewd, obscene or indecent purpose;

“house” includes a dwelling-house, building, room, out-house, shed or tent;

“owner” includes any person who lets or permits the occupation of any house or place whether in his own right or that of another;

“place” includes any field, enclosure, space, vehicle or boat;

“place of public resort” means a place of entertainment, amusement or refreshment, to which the public have access, whether by payment or otherwise;

“public place” means a place to which the public have access and includes a meeting which the public or any section thereof is permitted to attend, but does not include a public resort; (Amended A.18/1971.)

“unlawful carnal connection” means carnal connection otherwise than between husband and wife. (Amended P.17/1962.)

Keeping a brothel.

32. Any person who keeps a brothel shall be guilty of an offence and on conviction liable to imprisonment not exceeding three years.

Who are deemed keepers of brothel.

33. Any —

- (a) person who appears, acts or behaves as the master or mistress or as the person having the care or management of a brothel whether or not he is the real keeper;
- (b) woman found therein who refuses to disclose the owner or manager thereof;
- (c) male person resident therein (unless he proves that he was ignorant of the character of the house);
- (d) person whose wife resides in or manages or assists in the management thereof unless he is judicially separated and *bona fide* lives apart from her;
- (e) person who is the owner of a house or place and who knowingly lets or after receiving the notice mentioned in section 34 permits such house or place to be kept or used as a brothel; and,

- (f) person who knowingly receives the whole or any share of any money taken therein;

shall be deemed to keep a brothel.

Effect of notice to the owner.

34. If any house or place is used as a brothel written notice thereof given by a police officer of the rank of sub-inspector or above or by any two householders living in the vicinity of the house or place complained of to the owner thereof shall be conclusive proof of knowledge on the part of the person to whom such notice is given.

Onus of proof.

35. In any prosecution under this Part the onus of proving that a house or place is being kept or used as a brothel to the knowledge of the owner shall be on the prosecution:

Provided that if it is established to the satisfaction of the court that having regard to the locality and accommodation, the rent paid for the house or place is excessive or exorbitant, the onus shall be on the accused to prove that he was ignorant that such house or place was kept or used as a brothel.

Contract to let house for a brothel void.

36. Any contract to let any house or place to be kept or used as a brothel shall be null and void and no action or other legal proceedings for or in respect of rent shall be maintained in respect of such contract.

Contract to let house void if used as a brothel.

37. Any contract to let any house or place which subsequently to the making of such contract becomes a brothel shall upon the date of such event be determined and become null and void:

Provided that upon proof by the owner of his ignorance that such house or place was so kept or used he shall be entitled to recover the rent up to the date upon which he became aware that such house or place was being kept or used as a brothel.

Summary ejectment when the house is kept as a brothel.

38. The owner of any house or place used wholly or in part as a brothel shall be entitled to apply to the Regional Administrator of the region in which such house or place is situate for the summary ejectment of any person who may be keeping or using such house or place or any part thereof as a brothel, and such Regional Administrator shall be entitled after enquiry to order the summary ejectment of such person therefrom.

Proceedings when householders complain that a house is used as a brothel.

39. On the receipt of complaints from not less than two householders of good repute that any house or place in the vicinity of the dwellings of such householders is being kept or used as a brothel the Regional Administrator may require them to attend before him in his office and there declare on oath that the contents of their respective complaints are true and to enter

into recognisances in such sum as such Regional Administrator deems reasonable having regard to their pecuniary circumstances to produce material evidence in support of such complaints or upon a similar complaint upon oath being laid before him by any police officer of the rank of sub-inspector or above the Regional Administrator may issue his warrant for the arrest of the person appearing to be the keeper of such brothel to be dealt with according to law.

Regional Administrator may authorise search of house suspected of being a brothel.

40. (1) A Regional Administrator who has —
- (a) received the complaints, administered the oaths and taken the recognisances in accordance with section 39; or
 - (b) had laid before him satisfactory information on oath by any police officer of the rank of sub-inspector or above that any house or place is being kept or used as a brothel;

may instead of issuing his warrant for arrest as provided in section 39 issue a warrant authorising any police officer of the rank of sub-inspector or above to enter such house or place at any time and within such period as shall be limited in such warrant for the purpose of ascertaining the name and identity of the keeper thereof, and for such purpose to demand, search for and seize any account books, receipts, papers, documents or things found in such house or place likely to afford the information sought for.

(2) Such officer may also demand the name and address of any person found therein, and any person refusing, or failing to give his name or address or giving a name or address which is false in any material particular, or refusing to disclose the name or identity of the keeper of such house or place, or to produce any such book, receipt, paper, document or thing, may be arrested without warrant and shall be guilty of an offence and on conviction liable to a fine of one hundred and fifty emalangeni and in default of payment thereof, imprisonment for six months.

(3) No prosecution or conviction under this section shall be a bar to any criminal proceedings under any other section of this Part.

(4) The issue of a warrant under this section shall not in any way affect the power of a Regional Secretary at any time to issue a warrant under section 39 or any other law.

Parent or guardian procuring defilement of ward.

41. (1) Any person who is the parent or guardian of any girl or woman and who —
- (a) procures such girl or woman to have unlawful carnal connection with any man other than the procurer; or
 - (b) orders, is party to, permits or receives any consideration for the defilement, seduction or prostitution of such girl or woman;

shall be guilty of an offence and on conviction liable to imprisonment for five years and if such girl is under the age of twelve years he shall be liable to imprisonment for life and to be whipped.

- (2) In this section —

“guardian” includes any person who has in law or in fact the custody or control of such girl or woman.

Unlawfully defiling women — procuration.

42. Any person who —

- (a) procures or attempts to procure any girl or woman who is not a common prostitute or of known immoral character to have unlawful carnal connection either within or outside Swaziland with any other person;
- (b) inveigles or entices any such woman or girl to a brothel for the purpose of unlawful carnal connection or prostitution or knowingly conceals in any such house any such woman or girl so inveigled or enticed;
- (c) procures or attempts to procure any woman or girl to become a common prostitute either within or outside Swaziland;
- (d) procures or attempts to procure any woman or girl to become an inmate of a brothel in Swaziland or elsewhere;
- (e) by threats or intimidation procures or attempts to procure any woman or girl to have any unlawful carnal connection either within or outside Swaziland;
- (f) by false pretences or false representations procures or attempts to procure any woman or girl who is not a common prostitute or of known immoral character to have any unlawful carnal connection either within or outside Swaziland; or
- (g) applies or administers to any woman or girl or causes her to take any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable any person to have unlawful carnal connection with her;

shall, when such offence does not amount to rape or any attempt to commit rape, be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for five years. (Amended A.18/1952.)

Conspiracy to defile.

43. Any person who conspires with any other person to induce any woman or girl by any false pretences or other fraudulent means to allow any man to have unlawful carnal connection with her shall, where such offence does not amount to rape, be guilty of an offence and on conviction liable to a fine of six hundred emalangeni or imprisonment for two years. (Amended A. 18/1952.)

Householder permitting defilement of girl on his premises.

44. Any person who is the owner or occupier of any house or place or who has or acts or assists in the management or control thereof and who induces or knowingly permits any girl of the age mentioned in this section to resort to or to be in or upon such house or place for the purpose of being unlawfully and carnally known by any man, whether a particular man or not, shall if such girl is —

- (a) below the age of twelve years be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for life and a whipping; and
- (b) of or above the age of twelve years and below the age of sixteen years be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for five years. (Amended A.18/1952.)

Detention in a brothel.

45. (1) A person who takes or detains any woman or girl against her will to or in —
- (a) or upon any premises with intent that she may be unlawfully carnally known by any man, whether a particular man or not; or,
 - (b) a brothel;

shall be guilty of an offence and liable on conviction to a fine of one thousand emalangeni or imprisonment for seven years.

(2) A person shall be deemed to detain a woman or girl under this section if with intent to compel or induce her to remain in or upon any premises or any brothel, he withholds from her any wearing apparel or other property to the possession of which she is entitled, or which has been lent or supplied to her by such person or for the purposes of prostitution; and such woman or girl shall be justified in taking away any wearing apparel which is necessary to enable her to leave such premises or brothel. (Amended A.18/1952.)

Abduction of girl under eighteen.

46. Any person who takes or detains an unmarried girl under the age of eighteen years or causes her to be taken or detained out of the custody and against the will of her father or mother, or other person having the custody of her with intent that she may be unlawfully carnally known by any man, whether a particular man or not, shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for five years. (Amended A.18/1952.)

Enticing to commission of immoral acts.

47. Any person who —
- (a) entices or solicits immoral acts by words, signs, cards or in any other way whatsoever, or who knowingly aids or facilitates the commission of immoral acts; or
 - (b) is a person of notoriously immoral character and exhibits himself in indecent dress or manner at any door or window or within the view of any public street or place or any place to which the public have access;

shall be guilty of an offence and on conviction liable to a fine of six hundred emalangeni or imprisonment for two years.

Male persons living on earnings of prostitution.

48. (1) Every male person who —
- (a) knowingly lives wholly or in part on the earnings of prostitution; or
 - (b) in any public place solicits or importunes for immoral purposes;

shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for three years and to a whipping not exceeding twenty-four strokes in addition to such imprisonment.

(2) If it is made to appear to a regional secretary by information on oath that there is reason to suspect that any house or any part thereof is used by a female for the purposes of prostitution, and that any male person residing in or frequenting such house is living wholly or in part on the earnings of such prostitute, such regional secretary may issue a warrant authorising any police officer to enter and search such house and to arrest such male person.

(3) If a male person is proved to reside in a brothel or to live with or to be habitually in the company of a prostitute and has no visible means of subsistence, he shall unless he can satisfy the court to the contrary, be deemed to be knowingly living on the earnings of prostitution. (Amended A.18/1952.)

Offences in public place or place of public resort.

49. (1) A person shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or, in default of payment thereof imprisonment not exceeding six months, who —

- (a) in or near a public place or a place of public resort makes use of any insulting, indecent, obscene, blasphemous or threatening language;
- (b) in or within sight of a public place, or in a place of public resort, indecently exposes his person or makes indecent signs or gestures;
- (c) in or from a public place or a place of public resort, follows or addresses a female in an insulting manner; or
- (d) in a public place or a place of public resort and in the hearing of any other person, uses insulting or defamatory language, descriptions, or gestures by speech or other representation, of or to or concerning any person; or
- (e) is found loitering at any time in any thoroughfare or public place or near any dwelling house, shop, store or any enclosed place or veld or bush for the purpose of prostitution or solicitation or to the annoyance of the public: (Amended K.O-I-C. 31/1975; K.O-I-C. 27/1977.)

Provided that in any criminal proceedings under this paragraph the onus shall be on the accused to establish that he was not in such thoroughfare or public place or near such dwelling house, shop or store or enclosed place for any of such purposes. (Added P.17/1962; Amended K.O-I-C. 37/1973.)

(2) Notwithstanding any other law, but subject to section 8(2) of the Swazi Courts Act, No. 80 of 1950, a Swazi Court established under that Act shall have jurisdiction to try and determine any charge for a contravention of subsection (1)(e) hereof and on conviction to impose such penalty as is prescribed in subsection (1). (Added K.O-I-C. 27/1977.)

Control of places of public resort.

50. Any person who is the keeper or has the management of a place of public resort, and who knowingly permits pimps or prostitutes to frequent such place, or knowingly suffers prostitution to be carried on in or about such place shall be guilty of an offence and liable on conviction to the penalties mentioned in section 47. (Added P.17/1962.)

PART VI

UNAUTHORISED WEARING OF UNIFORMS

Date of commencement: 29th September, 1922.

Interpretation.

51. In this Part, unless the context otherwise requires —

“His Majesty’s Forces” includes a regular, reserve and auxiliary naval, air or military forces raised under an Act of Parliament.

Wearing uniform without authority.

52. Any person who without due authority wears or uses any uniform, decoration, medal, badge or ribbon supplied to or authorised for use by any of His Majesty’s forces or the Royal Swaziland Police, or any uniform, decoration, medal, badge, or ribbon so nearly resembling them as to be calculated to deceive, shall be guilty of an offence and liable to the penalties prescribed.

False representations.

52. Any person who falsely represents himself by act or word to be a person who is or has been entitled to use or wear any such uniform, decoration, medal, or badge shall be guilty of an offence and liable to the penalties prescribed.

Supplying without authority.

54. Any person who, without lawful authority or excuse, supplies any such uniform, decoration, medal, or badge to any person not authorised to use or wear it shall be guilty of an offence and liable to the penalties prescribed.

Bringing contempt or ridicule on uniform.

55. Any person not serving in His Majesty’s forces or in the Royal Swaziland Police, who wears or displays, with or without permission, the uniform of any of such forces, or any dress having the appearance, or any of the regimental or other distinctive marks, of any such uniform, in such manner or under such circumstances as to be likely to bring contempt or ridicule on such uniform or service of any such forces or who employs any other person so to wear or display such uniform or dress, shall be guilty of an offence and liable to the penalties prescribed.

False papers.

56. Any person who —

- (a) forges, alters or tampers with any air, naval, military or police discharge certificate, exemption certificate, passport or other official pass or document, or uses or has in his possession any such forged, altered or irregular discharge certificate, passport or other official pass or document;

- (b) impersonates or falsely represents himself to be or not to be a person to whom such discharge certificate, exemption certificate, passport or other official pass or document has been duly issued, or knowingly makes a false statement with intent to obtain any such discharge certificate, exemption certificate, passport, or other official pass or document, whether for himself or any other person; or,
- (c) is found in unlawful possession of any discharge certificate, exemption certificate, passport or other official pass or document;

shall be guilty of an offence and liable to the penalties prescribed.

Penalty.

57. Any person committing an offence under this Part shall on conviction be liable to a fine not exceeding one hundred and fifty emalangeni or in default of payment thereof imprisonment not exceeding six months.

Burden of proof.

58. If under this Part any act is an offence if done without lawful authority or excuse the burden of proving such act was done with lawful authority or excuse shall rest on the person accused.

Evidence.

59. Every document purporting to be an order or other instrument issued by a competent air, naval, military or police authority and to be signed by such authority, and duly certified copies thereof, shall be received in evidence and be deemed to be such order or instrument without further proof, unless the contrary is shown.

PART VII

HOUSEBREAKING, EXTORTION, WITCHCRAFT, ETC.

Date of commencement: 1st October, 1904.

Chapter 1

PRELIMINARY

Interpretation.

60. In this Part, unless the context otherwise requires —

“break” means obtaining entrance into or exit from any building by means of force, threat, fraud, stealth or trick or by the unfastening or opening of any door or window or by the removal of any thing used to cover any opening into or within or from such building;

“day time” means the period between sunrise and sunset;

“dwelling” means a building or structure or any part thereof which is for the time being kept by the owner or occupier thereof for the residence therein of himself, his family or servants or any of them, whether or not such building or structure is from time to time uninhabited;

“enter” means the insertion of any part of a person’s body or any part of an instrument used by such person within a building;

“night” means the period between sunset and sunrise;

“police officer” includes any member of any police force lawfully established in Swaziland;

“premises” means any building or structure or part thereof (other than a dwelling) habitually used as a shop, warehouse, storehouse, bank, office, school or for divine worship, or any outbuilding occupied in connection with any dwelling or premises;

“property” includes everything capable of being the subject of ownership whether animate or inanimate, movable or immovable, corporeal or incorporeal;

“valuable security” includes any document which is the property of any person and which is the evidence of the ownership of any property or of the right to recover, receive or be in possession of any property.

Chapter 2

HOUSEBREAKING AND LIKE OFFENCES

Breaking and entering premises other than a dwelling in the night with intent.

61. Any person who breaks and enters any premises at night with intent to commit an offence therein shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni or imprisonment not exceeding seven years and if such person is a male to whipping not exceeding twelve strokes in addition to such imprisonment.

Breaking and entering a dwelling in the night with intent.

62. Any person who breaks and enters any dwelling at night with intent to commit an offence therein shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni or imprisonment not exceeding fourteen years and if such person is a male to whipping not exceeding twenty-four strokes in addition to such imprisonment.

Entering dwelling or premises in the night with intent to commit an offence.

63. Any person who enters any dwelling or premises at night with intent to commit an offence therein shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni or imprisonment not exceeding five years and if such person is a male to whipping not exceeding nine strokes in addition to such imprisonment.

Being found by night armed or disguised or in possession of housebreaking implements with intent.

64. Any person who is found at night —

- (a) armed with any dangerous or offensive weapon or instrument with intent to commit any offence mentioned in the preceding sections of this Part; or
- (b) has in his possession without lawful excuse (the proof of which shall lie upon him) any pick, lock, key, crow, jack, jemmy or other implement of housebreaking; or who
- (c) has his face stained or disguised or his person dressed or otherwise disguised with intent to commit any offence mentioned in the preceding sections;

shall be guilty of an offence and liable upon conviction to the penalties mentioned in section 62.

Breaking and entering premises or dwelling by day with intent to commit an offence.

65. Any person who breaks and enters any premises or dwelling in the day time with intent therein to commit an offence shall be guilty of an offence and liable on conviction to a fine not exceeding one thousand emalangeni or imprisonment not exceeding five years and if a male to whipping not exceeding twelve strokes in addition to such imprisonment. (Amended A.18/1952.)

Entering premises or dwelling on ground attached to same and refusing to depart on request.

66. (1) Any person who —

- (a) enters upon any premises or dwelling or land, whether or not attached to or used in connexion with any premises or dwelling, and without reasonable excuse remains therein or thereon after request by the occupier thereof or his authorised representative to depart immediately therefrom; or,
- (b) without reasonable excuse, re-enters upon such premises, dwelling or land after he has departed therefrom in pursuance of such request;

shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding twelve months, or to such imprisonment without the option of a fine.

(2) If any person remains upon any premises, dwelling or land in contravention of subsection (1) the occupier or his authorised representative may —

- (a) call upon him to furnish him with his full name and address; and
- (b) whether or not such person supplies his full name and address on being requested to do so, eject him from such premises, dwelling or land, using no more force than is reasonably necessary for such purpose.

(3) Any person who, when called upon in accordance with sub-section (2)(a), to furnish his full name and address, fails to do so or furnishes an incorrect name or address, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni, or, in default of payment thereof, imprisonment not exceeding six months.

(4) Subject to section 30 of the Criminal Procedure and Evidence Act No. 67 of 1938 the occupier or his authorised representative may arrest without warrant any person who fails to furnish his full name and address when called upon and deliver him into the custody of a police officer to be dealt with according to law.

(5) This section shall not be construed as a bar to any civil proceedings.

(Amended P.34/1963; P.54/1963.)

Using threats after having broken or entered or unlawfully remained on premises.

67. A person who has unlawfully broken into or entered upon or remained upon any premises or dwelling or enclosed piece of ground attached to or used in connection with such premises and who by any threat or conduct puts anyone therein or thereon in bodily fear shall be guilty of an offence and on conviction be liable to a fine of six hundred emalangeni or imprisonment not exceeding two years and if a male to whipping not exceeding nine strokes in addition to any penalty to which he is liable under any law or under any of the preceding sections of this Part.

Punishment after previous conviction for like offences.

68. If any person is convicted of a contravention of any of the preceding sections of this Part after a previous conviction for —

(a) a contravention of any such section; or

(b) the offence of housebreaking with intent to commit an offence;

the maximum punishment prescribed by any such preceding section hereof may be increased as follows:

six months' imprisonment to imprisonment for one year;

two years' imprisonment to imprisonment for three years;

five years' imprisonment to imprisonment for seven years;

seven years' imprisonment to imprisonment for ten years;

fourteen years' imprisonment to imprisonment for twenty years;

and if on such previous conviction a sentence of whipping was imposed a sentence of whipping of double the number of strokes (not exceeding twenty-four in all) may be imposed on the second or subsequent conviction.

Chapter 3

EXTORTION

Compelling the execution of documents.

69. Any person who by unlawful violence or restraint of the person of another or by threat of violence and with intent to defraud or injure unlawfully compels any person to execute, make, accept, endorse, alter or destroy the whole or any part of any valuable security or to write, impress or affix any name or seal upon any paper or parchment in order that it may be afterwards made or converted into or used or dealt with as a valuable security shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment not exceeding twenty years and if such person be a male to whipping not exceeding twenty-four strokes in addition to such imprisonment.

Demanding property with threats and intent to steal.

70. Any person who with threats of injury or by the display or pretended display of force demands any property capable of being stolen with intent to steal or obtain unlawful possession thereof shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment not exceeding seven years and if such person be a male to whipping not exceeding twelve strokes.

Demanding property by letter using threats.

71. Any person who knowing the contents thereof sends, delivers or utters any letter or writing or directly or indirectly causes it to be received which demands of any person with the use of threats and without reasonable or probable cause any property or thing whatsoever shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment not exceeding fourteen years and if such person be a male to whipping not exceeding fifteen strokes.

Sending letter threatening to accuse or accusing of a crime with intent to obtain money, etc.

72. Any person who knowing the contents thereof shall send, deliver or utter any letter or writing or directly or indirectly cause it to be received which accuses or threatens to accuse any person of any crime or offence with intent to obtain from any person whatever any property or money or other valuable thing shall be guilty of an offence and liable, on conviction to the penalties mentioned in section 71, and if such crime or offence be an —

- (a) offence punishable with death or any attempt to commit such offence;
- (b) unnatural offence or an assault with intent to commit rape or an indecent assault;

the penalty for the offence created by this section may be a fine of one thousand emalangeni or imprisonment for twenty years and if such person be a male to whipping not exceeding twenty-four strokes.

Immaterial from whom the violence or accusation to come.

73. It shall be immaterial in any charge or trial of any person for contravening section 69, 70, 71 or 72, whether the threats mentioned in such section be of violence, injury or accusation to be caused or made, are to proceed from the accused or from any other person.

Publishing or threatening to publish defamatory matter with intent to extort money.

74. Any person who publishes or directly or indirectly threatens to publish or directly or indirectly proposes to abstain from publishing or directly or indirectly offers to prevent the publication, of any defamatory matter concerning any other person with intent to extort any property from such person or any third person or with intent to induce any person to give or confer or procure or to attempt to procure to, upon or for any person any property or benefit of any kind, shall be guilty of an offence and liable on conviction to a fine of one thousand emalangeni or imprisonment not exceeding three years.

Chapter 4

WITCHCRAFT

Imputations of witchcraft.

75. Any person who imputes to another the use of non-natural means in causing any disease in any person or property or in causing injury to any person or property or shall name or indicate another as a wizard or witch or who by means of pretended supernatural power indicates anyone as being responsible for or the cause of any injury to any person, animal or thing shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment not exceeding five years.

Witchdoctor naming another as a wizard or witch.

76. Any person who having named or indicated another as a wizard or witch or having by means of pretended supernatural power indicated another as being responsible for or the cause of any injury to any person, animal or thing and who is proved to be by habit or repute a witchdoctor or witch finder shall be guilty of an offence and on conviction liable to a fine of one thousand emalangeni or imprisonment for life.

Employing a witch doctor.

77. (1) Any person who by himself or by an agent or messenger employs or solicits a witchdoctor or witch finder as such to exercise his pretended power of divination or other pretended supernatural power shall be guilty of an offence and liable on conviction to a fine of four hundred emalangeni or imprisonment not exceeding one year and the agent or messenger so employed shall also be guilty of an offence and punishable in like manner.

(2) Any person who counsels, procures, incites, persuades, recommends, directs or orders any other person to employ or solicit any witchdoctor or witch finder as such whether resident within or outside Swaziland to exercise his pretended power of divination or other pretended supernatural power shall be guilty of an offence and liable on conviction to the penalty provided in sub-section (1).

(3) Any person who proceeds beyond the borders of Swaziland for the purpose of employing or soliciting either on his own or any other person's behalf any witchdoctor or witch finder as such to exercise his pretended power of divination or other pretended supernatural power shall be guilty of an offence and liable on conviction to the penalty provided in sub-section (1).

(4) In this Part —

“witchdoctor” or “witch finder” includes the persons described in siSwati by the words *umngoma* or *isangoma* or *inyanga yokupengula*.

(Amended A.18/1952.)

Witchdoctor supplying advice for witchcraft with intent to injure.

78. (1) Any person professing a knowledge of witchcraft or the use of charms who advises any person applying to him how to bewitch or injure persons, animals or other property or who supplies any person with the pretended means of witchcraft shall be guilty of an offence and on conviction liable to imprisonment not exceeding ten years.

(2) Any person who is found wearing any charm, dress, ornament, emblem or insignia which according to Swazi custom indicates the wearer as a diviner, witch doctor or witch finder shall be guilty of an offence and liable on conviction a fine of two hundred emalangeni or imprisonment not exceeding six months.

(Amended A.18/1952.)

Persons using witch medicine with intent to injure.

79. Any person who on the advice of a witchdoctor or of his pretended knowledge of witchcraft and with intent to injure, uses or causes to be put into operation such means or processes as he believes to be calculated to injure any person or property shall be guilty of an offence and liable on conviction to a fine of one thousand emalangeni or imprisonment not exceeding ten years.

(Amended A. 18/1952.)

Pretending to use supernatural power for purposes of gain.

80. (1) Any person who for purposes of gain pretends to exercise or use any kind of supernatural power, witchcraft, sorcery, enchantment or conjuration or undertakes to tell fortunes or pretends from his skill or knowledge in any occult science to discover where or in what manner anything supposed to have been stolen or lost may be found shall be guilty of an offence and liable on conviction to a fine of four hundred emalangeni or imprisonment not exceeding one year.

(2) Any person who practises as a diviner, or witchdoctor or witch finder shall be guilty of an offence and liable on conviction to a fine of four hundred emalangeni or imprisonment not exceeding one year. (Amended A.18/1952.)

Unlawful possession etc., of human body or part thereof.

80bis. (1) Any person who —

- (a) is in unlawful possession of a human body or part thereof;
- (b) receives, retains or conveys a human body or part thereof which he knows to have been unlawfully obtained;
- (c) with intent to remove, excise or extract any part of a human body or to do any similar act —
 - (i) abducts, confines, kidnaps or assaults another person; or
 - (ii) maims, mutilates, disfigures or dismembers a human body or does any similar act; or

- (d) counsels, procures, incites, persuades, recommends, directs or orders any other person to do any act which is an offence under this section;

shall be guilty of an offence and shall on conviction be liable to a term of imprisonment not exceeding fifteen years without the option of a fine.

(2) Any person who knows of any other person who has unlawful possession of a human body or part thereof and, without reasonable cause, fails to report such other person to a police officer or to a chief, indvuna or umgijimi within twenty-four hours of such knowledge shall be guilty of an offence and on conviction shall be liable to a term of imprisonment not exceeding five years without the option of a fine.

(3) In any proceedings under this section where the prosecution proves that the body or part of a body relating to the alleged offence is that of a human being —

- (a) the onus shall be on the accused to prove that the act, possession or intention relating to the offence was not unlawful;
- (b) the question as to whether the body or part of a body is that of a living person or a deceased person or of any particular person shall be immaterial.

(4) Where a person is charged with murder or culpable homicide and the evidence is sufficient to prove an offence under sub-section (1) but not to prove murder or culpable homicide, the Court may convict such person of an offence under that subsection as if he had been charged with that offence.

(5) Notwithstanding section 20 of the Criminal Procedure and Evidence Act, 1939, no prosecution under this section shall be barred by the lapse of time specified in that section.

(6) Nothing in this section shall be construed as prohibiting any lawful act —

- (a) in pursuance of a burial, interment or any other mode of disposal of a body or part thereof including its disposal in accordance with any law or Swazi law and customs; or
- (b) for the purpose of *bona fide* medical, dental, scientific or educational research, practice or study or any other similar purpose in accordance with a written authority issued by the Minister responsible for health.

(Added A.7/1986.)

Chapter 5

MISCELLANEOUS

Penalty for assaulting or resisting or obstructing police officer in execution of his duty.

81. Any person who assaults or resists or wilfully obstructs a police officer in the execution of his duty shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or in default of payment thereof imprisonment not exceeding three months or to be imprisoned without the option of a fine for a period not exceeding three months; and in the case of a subsequent conviction for any such offence within the space of two years he shall be liable to imprisonment not exceeding six months without the option of a fine.

Communication containing threats, etc.

82. Any person who writes or transmits or knowingly is a party to the writing or transmission of a communication containing threats of bodily injury to a person or indecent or obscene matter, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni or, in default of payment thereof, imprisonment not exceeding six months. (Added P.17/1962.)

Attempting or inciting to offences defined by this Part.

83. Any person who attempts to commit or who incites or attempts to procure the commission of any offence under this Part shall be guilty of an offence and liable on conviction to the punishment to which an offender convicted of such offence is liable under this Part.

Attempting to commit statutory offences other than defined in this Part.

84. Any person who attempts to commit any offence created or defined by statute other than in this Part for which attempt no punishment is expressly provided by such statute shall be guilty of an offence and liable on conviction to the punishment to which an offender convicted of such offence is by such statute liable.

PART VIII

PREVENTION OF CRIME

Date of commencement: 22nd September, 1905.

Special offences by persons twice convicted.

85. (1) If any person is convicted on an indictment of any crime and a previous conviction of a crime is proved against him he shall at any time within five years immediately after the expiry of the sentence passed on him for the last of such crimes be guilty of an offence against this Part and liable to a fine of four hundred emalangeni or imprisonment not exceeding one year if he is —

- (a) charged by a constable with getting his livelihood by dishonest means and brought before a court of summary jurisdiction and it appears to such court that there are reasonable grounds for believing that he is getting his livelihood by dishonest means;
- (b) found in any place, whether public or private, under such circumstances as to satisfy the court before which he is brought that he was about to commit or to aid in the commission of any offence punishable upon indictment or summary conviction or was waiting for an opportunity to commit or aid in the commission of any offence punishable on indictment or summary conviction; or
- (c) found in or upon any dwelling or ground attached thereto or habitually used therewith or in or upon any shop, store, warehouse, office or other place of business or in any garden, orchard, pleasure or recreation ground, nursery or enclosed place without being able to account to the satisfaction of the court for his presence there.

(2) Any person charged with an offence referred to in sub-section (1)(a), (b) or (c) may be arrested without warrant by any police officer:

Provided that if the offence is that mentioned in sub-section (1)(a) such arrest shall only be made on the written authority of the superintendent of police of the region.

Penalty on lodging-house keeper harbouring criminals.

86. (1) Every person who is the keeper or occupier of any house or place where intoxicating liquors are sold or of any lodging-house, restaurant, eating-house, tea-room or place of public entertainment or public resort who harbours persons whom he has reasonable grounds for believing obtain their living by the commission of crime or who knowingly permits or suffers such persons to meet or assemble therein or allows the deposit of goods therein knowing or having reasonable cause for believing such goods to be stolen or unlawfully possessed or acquired shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred emalangeni and in default of payment thereof, imprisonment for a period not exceeding six months and the court convicting him may, in addition to or in lieu of any such punishment require him to enter into recognisances with or without sureties to keep the peace and be of good behaviour for a period not exceeding twelve months:

Provided that —

(a) no person shall be imprisoned under this section for longer than three months for not finding the sureties required by this section; and

(b) the security required from a surety shall not exceed two hundred emalangeni.

(2) Any licence for the sale of any intoxicating liquors or for keeping a lodging-house, restaurant, eating-house, tea-room, place of public entertainment or public resort which has been granted to the keeper or occupier of any such house or place may in the discretion of the court be forfeited on his first conviction of an offence under this section and on his second conviction for such offence his licence shall be forfeited and he shall be disqualified for a period of two years from receiving any such licence.

(3) If two convictions under this section have taken place within a period of three years in respect of the same premises whether the persons convicted were or were not the same the court shall direct that for a term not exceeding one year from the date of the last of such convictions no such licence shall be granted to any person whatever in respect of such premises and any licence granted in contravention of this section shall be void.

(4) Any licensee brought before the court under this section shall produce his licence for examination and if such licence is forfeited shall deliver it up to the proper authority and if such person wilfully neglects or refuses to produce his licence he shall in addition to any other penalty under this section be liable on conviction to a fine not exceeding twenty emalangeni.

Prohibition of entry of certain persons into Swaziland.

87. Any person entering Swaziland shall be guilty of an offence against this Part if he has —

(a) been convicted, whether as principal or accessory, outside Swaziland, of murder, rape, theft, receiving stolen goods knowing the same to have been stolen, fraud, forgery, uttering of forged documents knowing the same to be forged, counterfeiting coin or uttering coin knowing the same to be

counterfeit, house-breaking with intent to commit an offence, burglary, robbery with violence, threats by letter or otherwise with intent to extort, or of any attempt to commit any such offence;

- (b) in any country other than Swaziland lived on or knowingly received any part of the earnings of prostitution, or procured women for immoral purposes;

and on conviction liable to imprisonment not exceeding two months, pending his removal from Swaziland by warrant under the hand of the Prime Minister.

Removal from Swaziland of certain convicted persons.

88. Any person who has —

- (a) been convicted of any offence mentioned in section 87(a); and
 (b) subsequent to the date of such conviction, entered Swaziland;

shall be guilty of an offence, and shall be liable to be dealt with in the manner provided in section 87, if it is proved to the satisfaction of any court before which he is brought that there are reasonable grounds for believing he obtains his livelihood by dishonest means.

Removal of convicted persons from Swaziland.

89. The Prime Minister may by warrant remove from Swaziland any person convicted of contravening section 87 or 88.

Penalty for being found in Swaziland after removal.

90. If any person who has been lawfully removed from Swaziland under this Part is thereafter found therein, he may be arrested without warrant, and brought before a magistrate's court, and shall be guilty of an offence and on conviction liable to imprisonment not exceeding twelve months, and at the expiry of such sentence may be again removed from Swaziland under section 89.

Regulations for preventing entrance into and removal and custody of persons convicted of certain offences.

91. (1) The Prime Minister may from time to time make regulations for preventing the entrance into Swaziland and removing therefrom any person convicted of contravening sections 87 or 88, and may designate public officers to carry out within or outside Swaziland any such regulations.

(2) Any such regulations may provide penalties for a contravention thereof not exceeding in any case a fine of two hundred emalangeni or in default of payment thereof imprisonment for twelve months or such imprisonment with or without the option of a fine.

Regulations for prohibiting possession of and sale of dangerous weapons.

92. (1) The Prime Minister may make regulations prohibiting or regulating the possession and sale of dangerous weapons and may in any such regulation declare what shall be deemed to be a dangerous weapon for the purposes thereof.

(2) Such regulations may be put into force in any region or in any portion of a region.

(3) Penalties may be prescribed by any such regulation for a contravention thereof not exceeding a fine of one hundred emalangeni or in default of payment thereof imprisonment for six months or to such imprisonment without the option of a fine.