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SWAZILAND GOVERNMENT GAZETTE

VOL. XXIX]

MBABANE, Friday, September 20th., 1991

[No. 821

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GENERAL NOTICE NO. 56 OF 1991

THE WAGES ACT 1964

(Act No. 16 of 1964)

NOTICE OF INTENTION TO SUBMIT WAGES REGULATION PROPOSALS

Under Section 11(2)

In accordance with the above Act, the Forestry and Forest Wages Council, having made such investigations as it deemed fit, hereby publishes its intention to submit proposals to the Honourable Minister for Labour and Public Service as to the minimum wage and conditions of employment which should be applied to the employees in relation to whom the council operates.

Copies of the proposals may be obtained from Department of Labour Head Quarters, during normal working hours.

Written representations with regard to the proposals must be sent to the Secretary, Forestry and Forest Wages Council, P.O. Box 198, MBABANE within thirty (30) days from the date of publication of this notice.

K.J. DLAMINI (MISS)
Secretary - Wages Councils

GENERAL NOTICE NO. 57 OF 1991

THE WAGES ACT 1964

(Act No. 16 of 1964)

NOTICE OF INTENTION TO SUBMIT WAGES REGULATION PROPOSALS

Under Section 11(2).

In accordance with the above Act, the Building and Construction Wages Council, having made such investigations as it deemed fit, hereby publishes its intention to submit proposals to the Honourable Minister for Labour and Public Service as to the minimum wage and conditions of employment which should be applied to the employees in relation to whom the council operates.

Copies of the proposals may be obtained from Department of Labour Head Quarters, during normal working hours.

Written representations with regard to the proposals must be sent to the Secretary, Building and Construction Wages Council, P.O. Box 198, MBABANE within thirty (30) days from the date of publication of this notice.

K.J. DLAMINI (MISS)
Secretary - Wages Councils

HAVELOCK ASBESTOS MINES SWAZILAND LIMITED

(IN LIQUIDATION)

MCL 1/91

Notice is hereby given that the second meeting of creditors and contributories in the above matter will be held at the Conference Room Mountain Inn Mbabane Swaziland on Friday 11 October 1991 at 11:30 for:-

- (a) Proof of Claims;
- (b) Receiving the report on the affairs of the Company in Liquidation by the Joint Liquidators in terms of Section 82 of the Insolvency Act 1955;
- (c) Giving the Joint Liquidators such directions pertinent to the winding up of the Company as the Creditors by majority vote may resolve;
- (d) Approving any interim distributions that the meeting may deem appropriate;
- (e) Any other business.

Claims and proxies in legal form must be in the hands of the Master of the High Court of Swaziland at the latest by 12:00 noon on 10 October 1991. A creditor whose claim has not been paid shall not be entitled to vote at the meeting.

P R Cooper J W S Bennett
Joint Liquidators

C872 27.9.91

NOTICE

Notice is hereby given that I Daniel Mveli Simelane of the Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Mkhabela after the fourth publication of this Notice in each of four consecutive weeks in the Times of Swaziland and Swazi Observer Newspapers, being two 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 Mkhabela is because it is my natural surname.

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

Ngogola Store
P/B Manzini

Regional Secretary
Manzini Region

C865 4x11.10.91

NOTICE

Notice is hereby given that I, Ephraim Musa Mhlongo of Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Maseko after the fourth publication of this Notice in each of four consecutive weeks in the Times of Swaziland and Swazi Observer Newspapers, being two 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 Maseko is because Maseko is my natural surname.

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

Ephraim Musa Mhlongo
P.O. Box 210
Piggs Peak

Regional Secretary
Hhohho Region

C852 4x11.10.91

NOTICE

Notice is hereby given that Zacchaes Gcinuyise Manyathi of P.O. BOX 4, Hluti Shiselweni Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Madlala after the fourth publication of this notice in each of four consecutive weeks in the Times of Swaziland and the Swazi Observer newspapers being two 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 Madlala is because Manyathi is my praise name.

Any person or persons likely to object to my assuming the surname Madlala should lodge their objections in writing with me at the address given below and with the Regional Secretary for Shiselweni Region, P.O. Box 8, Nhlanguano.

P.O. Box 4, Hluti
Regional Secretary,
P.O. Box 8,
NHLANGANO.

C854 4x11.10.91

NOTICE

TRADING LICENCES ORDER

Notice is hereby given that application has been made by Nunes Investments (Pty) Limited of P.O. Box 50, Big Bend, under the style "Riverside Restaurant" for the transfer to it of a Restaurant Licence held by Manuel Joao Nunes in respect of premises on Riverside Farm, Big Bend, Lubombo District and that such application will be heard in the Regional Secretary's offices at Siteki at 10.00 a.m. on the 29th October, 1991.

Objections, if any, must be lodged in writing with the undersigned and the Applicants Attorneys R.D. Fridlander & Company, P.O. Box A1, Swazi Plaza, Mbabane by noon on the 25th October, 1991.

The Licensing Officer
P.O. Box 20,
SITEKI.

C864 20.9.91

NOTICE

IMPORT/EXPORT LICENCE ORDER

Notice is hereby given that an application has been made by Yami Distributors (Pty) Limited of P.O. Box 353, Eveni, for a grant of an Import/Export Licence to operate at Lot 639, Farm No. 118, Dalriach, in the Hhohho District, and that such application will be heard in the Regional Secretary's offices at Hhohho at 10 a.m. on the 22nd October, 1991.

Objections, if any, must be lodged in writing with the undersigned and the Applicant's Attorneys, R.D. Friedlander & Company, P.O. Box A1, Swazi Plaza, Mbabane by noon on the 11th October, 1991.

The Licensing Officer
P.O. Box 45,
MBABANE.

C859 20.9.91

NOTICE

TRADING LICENCES ORDER

Notice is hereby given that application has been made by Nunes Investments (Pty) Limited of P.O. Box 50, Big Bend, under the style "Riverside Supermarket" for the grant of a General Dealer's Licence in respect of Shop No. 1, Riverside Shopping complex situated on a portion of the Farm "Picardie", Big Bend, Lubombo District and that such application will be heard in the Regional Secretary's offices at Siteki at 10. a.m. on the 29th October, 1991.

Objections, if any, must be lodged in writing with the undersigned and the Applicants Attorneys R.D. Friedlander & Company, P.O. Box A1, Swazi Plaza, Mbabane by noon on the 25th October, 1991.

The Licensing Officer
P.O. Box 20,
SITEKI

C863 20.9.91

NOTICE

ESTATE LATE GILBERT BHENGU E.92/90

Notice is hereby given that in terms of Section 51 bis of the Administration of Estates Act No. 28 of 1902 the First and Final Liquidation and Distribution Account will lie open for inspection at the offices of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from date of appearance of this Notice.

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

DATED at MBABANE this 13th day of SEPTEMBER, 1991.

P.M. SHILUBANE & ASSOCIATES
GROUND FLOOR MBANDZENI BUILDING
SMUTS AND CHURCH STREETS
MBABANE

C856 20.9.91

NOTICE

Notice is hereby given that we intend applying for a Certified Copy of:- Deed of Transfer .
34/1972 dated 9th February, 1972 in favour of Humphrey Ralph Dhlamini in respect of:-

CERTAIN: Portion 42 of the farm TRELAWNY PARK No. 868, situate in the District of
MANZINI, Swaziland;

MEASURING: 1387 (One Thousand Three Hundred and Eighty Seven) square metres
and of Mortgage Bond No. 22/1972, dated 9th February, 1972, passed by HUMPHREY RALPH
DHLAMINI in favour of SWAZILAND BUILDING SOCIETY for the sum of E6 000.00 (SIX
THOUSAND EMALANGENI) over the said Portion 42 of Farm 868.

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 16th day of September, 1991.

ROBINSON, BERTRAM & CO,
Attorneys for/Applicant,
P.O. Box 24,
MBABANE

C868 2x27.9.91

NOTICE

Notice is hereby given that we intend to apply for a certified copy of a deed of transfer No.
197/1989 dated 2nd May 1989 passed by Themba Vulindlela Sowazi in favour of Sydney Suitbert
Mngadi (born on the 16th May 1928) in respect of:

CERTAIN: Lot No. 647 situate in the Manzini Township No. 7 District of Manzini Swaziland;

MEASURING: 1228 (One Thousand Two Hundred and Twenty Eight) square metres;

EXTENDING: As Crown Grant No. 26/1982 with General Plan S.G. NO. 557/77 made in favour of
the appearer's principal on the 6th March 1981 and registered on 12th March 1982.

Any person having objection to the issue of such a 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 17th DAY OF SEPTEMBER 1991

P.M. SHILUBANE & ASSOCIATES
GROUND FLOOR MBANDZENI BUILDING
SMUTS STREET
MBABANE

C869 2x27.9.91

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No.
247/1982 dated the 13th day of October, 1982 made in favour of Treasure Ncana Nkwanyana (born
Dlamini) on the 17th May, 1954, a widow in respect of certain Lot No. 320 situate in Pigg's Peak
Township in the District of Hhohho Swaziland measuring 750 (Seven Hundred and Fifty) square metres.

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

DATED at MBABANE this 26th day of JULY 1991.

VAN HEERDEN & CO.,
Attorneys for Applicant
P.O. Box 94, MBABANE.

C849 2x20.9.91

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO: 276/91

In the matter between

STEEL & WIRE INTERNATIONAL (PTY) LTD
and

Plaintiff

B.M.N. WIRE PRODUCTS (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 Administration for the District of Manzini outside the Regional Administration office. Manzini premises on the 8th November 1991 at 11.00 a.m.

The property is sold as is:-

CERTAIN: Lot No. 24 (twenty-four) situate in Matsapha Town, Manzini District.

MEASURING: 4278 (four thousand, two hundred and seventy-eight) square metres.

The conditions of sale are available for inspection at the office of the Sheriff at the High Court Building, MBABANE.

Further particulars may be obtained from the undersigned.

Dated at MBABANE this day of 1991.

PERRY AND PARTNERS
PLAINTIFF'S ATTORNEYS
1st FLOOR, SHISELWENI HOUSE
ALLISTER MILLER STREET
MBABANE

C867 20.9.91

NOTICE

NOTICE OF SALE IN EXECUTION IN THE INDUSTRIAL COURT OF

SWAZILAND CASE NO. 43/89

AND SUBORDINATE COURT HELD IN MANZINI CASE NO. 124/91

In the matter between:

MZULULEKI MABUZA

Plaintiff

SWAZILAND PROPERTY MARKET

Plaintiff

and

OKWETHU TRANSPORT

Defendant

THABISILE FAKUDZE

Defendant

In Pursuance of the Writs of Execution issued in the above matters, the underlisted goods will be sold by Public Auction at the Magistrate Premises Manzini on Friday the 27th September 1991 at 10.00 a.m.

GOODS

- 1 Toyota Hilux SD 048 MM
- 1 Hi-Fi-Set Radio
- 1 Fridge
- Lounge Suit
- 1 Electric Stove
- 1 Kitchen Unit
- 1 Carpet
- 1 Coffee Table

TERMS:

Cash (or Bank Guaranteed Cheque)

S. NXUMALO
Messenger of the Court Manzini District

C857 20.9.91

NOTICE

TRADING LICENCE APPLICATION

- 1. Notice is given of the following application date: 8th October 1991 at 10.00 a.m.
- 2. Applicant: Matsapa Meat Market (Pty) Limited
- 3. Nature: Grant of a Butchery Licence
- 4. Premises: Lot No 504 Mbabane Town, Hhohho District
- 5. Style: Mbabane Meat Market
- 6. Privileges/Amendment: Nil

Any objections thereto must be lodged with the Applicant c/o CARLSTON AND COMPANY, P O BOX 143 MANZINI and with the LICENCE OFFICER, P.O. BOX 13 MANZINI but not later than 4th October 1991.

C860 20.9.91

NOTICE

Notice is hereby given that we intend applying for a Certified Copy of:- Deed of Transfer No. 284/1973 dated the 26th October 1973 in favour of SAMSON NKONYANE (born on the 14th April 1928) in respect of:-

CERTAIN: Lot No 220 situate in Fairview Road in the Township of Fairview, District of Manzini, Swaziland;

MEASURING: 1401 (One Four Zero One) 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 18th day of SEPTEMBER 1991.

ROBINSON, BERTRAM & CO,
Attorneys for/Applicant,
P.O. Box 24,
MBABANE

C873 2x27.9.91

NOTICE

Notice is hereby given that I, Vusi Sibonangaye Dlamini of the Hhohho Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Shongwe after the fourth publication of this Notice in each of four consecutive weeks in the Times of Swaziland and Swazi Observer Newspapers being two newspapers circulating in the region where I reside and designated for this purpose by the Regional Secretary for Hhohho Region and in the Government Gazette. The reason I want to assume the surname Shongwe is because it is my natural surname.

Any person or persons likely to object to my assuming the surname Shongwe 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,
MOTSHANE.

C829 4x27.9.91

NOTICE

LOST TITLE DEED

Notice is hereby given that we intended applying for a Certified copy of Deed of Transfer No. 96/1964 in respect of certain Erf. No. 105, Manzini Town, District of Manzini Swaziland; measuring 1983 square metres made in favour of Ephraim Tshabalala (born on the 1st January, 1909) on the 9th July 1964.

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

CARLSTON AND COMPANY
Applicant's Attorneys
P.O. Box 143, MANZINI.

C839 2x20.9.91

NOTICE

Notice is hereby given that I, Aaron Mseni Manana of the Shiselweni Region intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname Simelane after the fourth publication of this Notice in each of four consecutive weeks in the Times of Swaziland and Swazi Observer Newspapers, being two 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 Simelane is because Simelane is my natural surname.

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

Box 9, HLATIKULU

C845 4x4.19.91

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XXIX]

MBABANE, Friday, September 20th., 1991

[No. 821

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PUBLISHED BY AUTHORITY

THE CUSTOMS AND EXCISE (AMENDMENT) (NO. 2) BILL, 1991

(Bill No. 8 of 1991)

(To be presented by the Minister for Finance)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend various provisions of the Customs and Excise Act, 1971, so as to bring them into conformity with the corresponding provisions of the Customs and Excise Act, 1964 of the Republic of South Africa, in accordance with the Swaziland's obligations under Article 10 of the 1969 Customs Union Agreement, and in particular to amend the Act so as -

- (a) to delete references to sales duty, sales duty goods and an embargo;
- (b) to extend certain definitions for the purposes of all customs union agreements concluded under this Act;
- (c) to provide further for the prevention of any goods entering Swaziland in contravention of the Act;
- (d) to further regulate the entry of goods and the liability for duty on imported goods;
- (e) to further regulate the calculation of the value of customs duty purposes of imported goods;
- (f) to further regulate the granting of refunds and rebates of duty;
- (g) to provide for the set-off of certain overpayments in respect of duty or certain provisional refunds or amounts refundable against duty subsequently payable; and
- (h) to provide for matters incidental thereto.

A.F.M. THWALA
Attorney General

A BILL
entitled

An Act to amend the customs and excise Act, 1971.

ENACTED by the King and the Parliament of Swaziland.

Short title.

1. This Act may be cited as the Customs and Excise (Amendment No. 2) Act, 1991 and shall be read as one with the Customs and Excise Act, 1971 (in this Act referred to as the "principal Act".)

Amendment of long title.

2. The long title of the principal Act is replaced with the following -

"An Act to provide for the levying of customs and excise duties and a surcharge, the prohibition and control of the importation export or manufacture of certain goods and for incidental matters."

Amendment of Section 2.

3. Section 2 of the principal Act is amended -

- (a) in subsection (1) by -
- (i) replacing the words preceding the definition "African beer" with the following words -
 "In this Act, unless the context otherwise indicates, any reference to customs and excise or matters relating thereto shall be deemed to include a reference to surcharge or matters relating thereto, and -";
 - (ii) replacing the definition "controller" with the following:
 "controller", in relation to any area or matter, means the officer designated by the Commissioner to be the Controller of Customs and Excise in respect of that area or matter and includes an officer acting under the control or direction of any officer so designated by the Commissioner;"
 - (xi) deleting the definition "sales duty";
 - (xii) deleting the definition "sales duty goods"; and
- (b) in subsection (2) by replacing the words preceding sub-paragraph (a) with the following -
 "(2) For the purposes of any customs union agreements concluded under section 51 -".

Amendment of section 3.

4. Section 3 of the principal Act is replaced by the following -

"Commissioner to administer Act.

3. (1) The Minister may designate a public officer as Commissioner of Customs and Excise who shall, subject to the direction of the Minister, be charged with the administration of this Act including the interpretation of the Schedules.

(2) The Commissioner may designate an officer to be the controller in relation to any area or matter.

(3) The controller shall perform his duties and exercise his powers under this Act with due regard to any instructions issued by the Commissioner.

(4) Any duty imposed or power conferred on the Commissioner may be performed or exercised by the Commissioner personally or by an officer under a delegation from or under the control or direction of the Commissioner.

(5) Any decision made and any notice or communication signed or issued by any such officer may be withdrawn or amended by the Commissioner or by the officer concerned (with effect from the date of making such decision or signing or issuing such notice or communication or the date of withdrawal or amendment thereof) and shall, until it has been so withdrawn be deemed, except for the purposes of this subsection, to have been made, signed or issued by the Commissioner."

Amendment of section 4

5. Section 4 of the principal Act is amended by -

- (a) replacing subsection (2) with the following -

"(2) No officer shall be directly financially interested in the manufacture or sale or importation of or trade in imported or excisable goods;" and

- (b) inserting after subsection (11) the following new subsections (11 bis) and (11 ter) -

"(11 bis) An officer shall have free access to and the right to rummage every part of any vehicle and to examine all goods on board, with power to

mark any goods before landing and to lock up, seal, mark or otherwise secure any goods on board that vehicle, including any apparatus thereof, and he may also demand from the pilot of any aircraft concerned or the person in charge of any other vehicle the production of any document to which any provision of this Act relates.

(11 ter) If any lock, seal or mark placed upon any goods on board a vehicle by an officer in terms of the provisions of this section is wilfully opened, broken, obliterated or altered or if any goods which have been locked, sealed, marked or otherwise secured in terms of this section are removed without his consent, the pilot of any aircraft concerned or the person in charge of any other vehicle, as the case may be, shall be guilty of an offence unless he proves that it was not possible for him to have prevented the act in question.”;

(c) adding the following sentence to subsection (12) -

“If such person fails to stop, the officer may take such action, including the use of force, as he may deem necessary to stop such person.”; and

(d) replacing subsection (15) with the following -

“(15) If in pursuance of his duties under subsection (11) the officer finds any vehicle, room, cabin, place, safe, chest, box, package or container as defined in section 2(1), is locked and the keys thereof are not produced on demand, the officer may open such vehicle, room, cabin, place, safe, chest, box, package or container in any manner.”;

(e) inserting after subsection (16) the following new subsection (17)

“(17) No person shall be entitled to any compensation for any loss or damage arising out of any *bona fide* action of an officer under this section.”.

Amendment of section 5.

6. Section 5 of the principal Act is amended by -

(a) replacing the words “customs, excise and sales duty” appearing in paragraphs (a), (c), (e) and (f) of subsection (1) with the words “customs and excise;” and

(b) deleting subsections (3), (4) and (5).

Amendment of section 6.

7. Section 6 of the principal Act is amended by inserting after subsection (1) the following new subsection (1 bis) -

“(1 bis) (a) The pilot of an aircraft arriving in Swaziland shall, unless the Commissioner has granted him special permission to land elsewhere, make his first landing at a place appointed as a customs and excise airport in terms of section 5:

Provided that the provisions of this subsection shall not apply if the pilot is forced by circumstances beyond his control to land at a place not so appointed and he reports to the Controller nearest to the place where he was so forced to land or to the Controller at the customs and excise airport appointed in terms of section 5 at which he next arrives.

(b) Such pilot who is forced by circumstances beyond his control to land at a place in Swaziland not appointed as a place of entry in terms of section 5 shall take all precautions necessary to prevent any contravention of this Act in respect of any goods on or in such aircraft.”

Deletion of section 7.

8. Section 7 of the principal Act is hereby deleted.

Amendment of section 8.

9. Section 8 of the principal Act is amended by deleting the words "and sales duty goods" where they appear in subsection (1) (g).

Amendment of section 11.

10. Section 11 of the principal Act is amended by replacing subsection (2) with the following -

"(2) Such station master or other person shall not permit any such goods to be removed from the railway premises before due entry thereof unless the Controller allows such goods to be so removed, subject to such conditions as he may in each case impose, before such entry."

Amendment of section 12.

11. Section 12 of the principal Act is amended by replacing the words "Schedule No. 2, 4, 5, or 7" where they appear in subsection (3)(a) with the words "Schedule No. 2, 4 or 5."

Amendment of section 13.

12. Section 13 of the principal Act is amended by replacing subsection (1) with the following -

"(1) Any person entering or leaving Swaziland shall, in such a manner as the Commissioner may determine, unreservedly declare -

- (a) at the time of entering, all goods (including goods of another person) upon his person or in his possession which he brought with him into Swaziland which -
 - (i) were purchased or otherwise acquired abroad or on any vehicle or in any shop selling goods on which duty has not been paid;
 - (ii) were remodelled, processed or repaired abroad; or
 - (iii) are prohibited, restricted or controlled under any law;
- (b) before leaving, all goods which he proposes taking with him beyond the borders of Swaziland,

and shall furnish an officer with full particulars thereof, answer fully and truthfully all questions put to him by such officer and, if required by such officer to do so, produce and open such goods for inspection by the said officer, and shall pay any duty assessed by such officer to the Controller."

Amendment of section 16.

13. Section 16 of the principal Act is amended by deleting the words "or sales duty goods" where they appear in subsection (1) (a).

Amendment of section 18.

14. Section 18 of the principal Act is amended by replacing the words "Schedule No. 4, 6, or 7," appearing in the Proviso to subsection (8) with the words "Schedule No. 4 or 6,".

Amendment of section 25.

15. Section 25 of the Principal Act is amended by deleting the words "or sales duty" where they appear -

- (a) in subsection (1);
- (b) in subsection (3); and
- (c) in subsection (5) .

Amendment of section 35.

16. Section 35 of the principal Act is replaced by the following -

“Special provisions in respect of manufacture of goods specified in Section B of Part 2 of Schedule No. 1 and collection of excise duty specified in Section B of Part 2 of Schedule 35. (1) Every manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1, every owner of excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured for him partly or wholly from materials owned by such owner, and every dealer of a class designated by the Commissioner, in pearls, precious and semi-precious stones, precious metals, metals clad with precious metals or articles containing or manufactured of such pearls, precious and semi-precious stones, precious metals or metals clad with precious metals (excluding imitation jewellery), shall licence his premises as a special duty warehouse for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 in terms of this Act, and no such manufacturer, owner or dealer shall manufacture or deal in or with excisable goods specified in Section B of Part 2 of Schedule No. 1 unless he has so licensed his premises:

Provided that the Commissioner may in his discretion and to the extent he deems fit, exempt, on the conditions imposed by him in each case, any such manufacturer or owner from the requirements of this Act.

(2) Notwithstanding anything to the contrary in this Act -

- (a) where the value added by any process in the manufacture of excisable goods specified in Section B of Part 2 of Schedule No. 1 is, in the opinion of the Commissioner, low in relation to the manufacturer's selling price of such goods, or where any process in the manufacture of excisable goods specified in Section B of part 2 of Schedule No. 1 presents in his opinion exceptional difficulties in the collection of excise duty specified in Section B of Part 2 of Schedule No. 1 in respect of such goods, the provisions of subsection (1) shall apply, and due entry of such goods shall be effected, at such stage in the manufacture of the said goods as he may in his discretion determine, and the processes which shall be deemed to be included for the purposes of calculating the value for the excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods shall be as determined by him;
- (b) the Commissioner may, subject to such conditions as he may impose in each case
- (i) where the production and disposal of any excisable goods specified in Section B of Part 2 of Schedule No. 1 are performed by different persons, or under other circumstances rendering it expedient in his opinion to do so, issue one licence under the provisions of this Act in respect of the premises of two or more persons concerned, and thereupon each such persons shall be jointly and severally liable for the excise duty specified in Section B of Part 2 of Schedule No. 1 on all the excisable goods specified in Section B of Part 2 of Schedule No. 1 concerned, any one paying, the other or others to be absolved *pro tanto*;
- (ii) include in a special duty warehouse licence issued under this Act in respect of the premises of any manufacturer of excisable goods specified in Section B of Part 2 of Schedule No. 1, any warehouse, depot, agency, branch or other storage place approved by the Commissioner and in which any such goods owned by such manufacturer are stored, and thereupon such goods so stored shall, for the purposes of this Act, be deemed to be in the licensed special duty warehouse of such manufacturer, and the licensee concerned shall be liable as such in all respects for compliance with the

requirements of this Act and for the excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods so stored;

- (iii) in such circumstances as he may deem expedient, license the premises of any dealer in excisable goods specified in Section B of Part 2 of Schedule No. 1 as a special duty warehouse under the provisions of this Act, and thereupon such dealer shall comply with the requirements of this Act relating to the collection of excise duty specified in Section B of Part 2 of Schedule No. 1 on such excisable goods specified in Section B of part 2 of Schedule No. 1 as the Commissioner may determine, and be liable for the excise duty specified in Section B of Part 2 of Schedule No. 1 on such goods;
- (iv) make such temporary or permanent adjustment to the excise duty value of excisable goods specified in Section B of Part 2 of Schedule No. 1 as he may deem reasonable in circumstances which are in his opinion exceptional.

(3) Excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in Swaziland by any natural person for his own use and not for sale or disposal and in circumstances which in the opinion of the Commissioner do not constitute a business venture, may, subject to such conditions as he may impose in each case, be exempted by the Commissioner from the payment of excise duty specified in Section B of Part 2 of Schedule No. 1 thereon.

(4) Excisable goods specified in Section B of Part 2 of Schedule No. 1 manufactured in Swaziland by any other person, or any class or kind of such goods, may, subject to such conditions as the Minister may impose, be exempted by the Commissioner from the payment of excise duty specified in Section B of Part 2 of Schedule No. 1 thereon if -

- (a) the average value for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods has during such period or periods as the Minister may determine, not exceeded such amount as the Minister may determine; or
- (b) the value for purposes of excise duty specified in Section B of Part 2 of Schedule No. 1 of such goods or such class or kind of such goods is in the opinion of the Commissioner not likely to exceed the amount referred to in paragraph (a) during one calendar year; or
- (c) such circumstances as may be prescribed by regulation apply.”.

Amendment of section 36.

17. Section 36 of the principal Act is amended by replacing subsection (12) with the following -

“(12) There shall be paid on entry for home consumption, in addition to any duty payable in terms of this section and subject to the provisions of sections 25(5) and 75, surcharge at the rate applicable in terms of Schedule No. 1 on any surcharge goods used or incorporated in the manufacture, reconditioning, mixing or blending of any goods to which this section relates and on any such manufactured, reconditioned, mixed or blended goods which are liable to surcharge in terms of the said Schedule.”.

Amendment of section 37.

18. Section 37 of the principal Act is amended by -

- (a) replacing subsections (2) and (3) with the following -

“(2) Any importer may, at any place appointed under this Act for the

entry of goods, make such entry of goods which have been delivered to the carrier which conveys the goods by vehicle to Swaziland for discharge at that place, notwithstanding the fact that such vehicle has not yet arrived at that place.

(3) Every importer shall within seven days of the granting of a release order by the Controller in respect of any goods entered in terms of subsection (1), or, where the goods in question arrive after the granting of the order, within seven days of the arrival of such goods, present such release order to the authority in possession of such goods for delivery thereof.”;

(b) replacing the words preceding paragraph (i) of subsection (4)(a) with the following -

“(4) (a) Every reporter of any goods shall, before such goods are exported from Swaziland, deliver, during the hours of any day prescribed by regulation to the Controller a bill of entry in the prescribed form, but the Commissioner may -”; and

(c) replacing the words “excisable goods, sales duty goods and” appearing in subsection (5) with the words “excisable goods and”.

Amendment of section 38.

19. Section 38 of the principal Act is amended by replacing subsection (1) with the following -

“(1) The person entering any imported goods for any purpose in terms of this Act shall deliver, during the hours of any day prescribed by regulation, to the Controller a bill of entry in the prescribed form, setting forth the full particulars as indicated on the form and as required by the Controller, and according to the purpose (to be specified on such bill of entry) for which the goods are being entered, and shall make and subscribe to a declaration in the prescribed form, as to the correctness of the particulars and purpose shown on such bill of entry.”.

Amendment of section 40.

20. Section 40 of the principal Act is amended by deleting the words “or sales duty goods” appearing in subsection (1).

Amendment of section 43.

21. Section 43 of the principal Act is amended by -

(a) deleting the words “or sales duty goods” appearing in the Proviso to subsection (1);

(b) deleting the words “or sales duty goods” wherever they appear in subsection (2);

(c) replacing subsection (6)(c) with the following -

“(c) in any other case, on the importer or the owner of such goods or any person who assumes such liability for any purpose under the provisions of this Act, subject to the approval of the Commissioner and such conditions as he may determine.”;

(d) deleting the words “or sales duty” wherever they appear in subsection (8); and

(e) deleting the words “or sales duty goods” appearing in subsection (9).

Amendment of section 46.

22. Section 46 of the principal Act is amended by -

- (a) replacing the words “all excisable goods, all sales duty goods and” appearing in subsection (2) with the words “all excisable goods and”;
- (b) deleting the words “or sales duty item,” wherever they appear in subsection (8); and
- (c) replacing the words “Part 2, 3, 4 or 6” wherever they appear in subsection (8) with the words “Part 2, 4 or 6”.

Amendment of section 47.

23. Section 47 of the principal Act is amended by replacing subsection (1) with the following -

“(1) The Schedules to the Customs and Excise Act, No. 91 of 1964 of the Republic and any amendments thereto from time to time published in English in the Republic shall *mutatis mutandis* be deemed to be the Schedules to this Act, and the provisions thereof shall be deemed to have come into force on the same day as they came into force in the Republic.”.

Amendment of section 66.

24. Section 66 of the principal Act is amended by -

- (a) in subsection (8) by replacing paragraph (d) with the following -
 - “(d) the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the imported goods at the port or place of export in the country of exportation and placing those goods on any vehicle, or in a container as defined in section 2(1), at that port or place;” and
- (b) replacing subsection (11) with the following -
 - “(11) For the purposes of subsection (7)(a)(ii) or (8)(d), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question -
 - (a) are packed in a container as defined in section 2(1) or, if not so packed in a container, placed on any vehicle which conveys them from or across the border of that country; or
 - (b) if they are vehicles moving under their own power, finally leave that country for Swaziland.”.

Amendment of section 67.

25. Section 67 of the principal Act is amended by -

- (a) replacing paragraph (e) of subsection (1) with the following -
 - “(e) to the extent that they are not included in the price actually paid or payable for the goods, the cost of transportation, loading, unloading, handling and insurance and associated costs incidental to delivery of the goods at the port or place of export in the country of exportation and placing those goods on any vehicle, or in a container as defined in section 2(1), at that port or place.”; and
- (b) replacing subsection (4) with the following -
 - “(4) For the purposes of subsection (1)(e) or (2)(a), the port or place of export referred to therein shall be the place in the country of exportation where the goods in question -
 - (a) are packed in a container as defined in section 2(1) or, if not so

packed in a container, placed on any vehicle which conveys them from or across the border of that country; or

- (b) if they are vehicles moving under their own power, finally leave that country for Swaziland.”.

Deletion of section 70.

26. Section 70 of the principal Act is hereby deleted.

Amendment of section 75.

27. Section 75 of the principal Act is amended by -

- (a) deleting paragraph (e) of subsection (1);
- (b) replacing the Proviso of paragraph (f)(i) to subsection (1) with the following -
 “Provided that no such refund shall be paid to any government, department, administration or any body, institution or authority mentioned in the notes to the said Schedule No. 5 or 6”;
- (c) replacing the words “Schedule No. 3, 4, 6 or 7” appearing in the Proviso to subsection (7) with the words “Schedule No. 3, 4 or 6”;
- (d) replacing the words “Schedule No. 5, 6, or 7” appearing in subsection (9) with the words “Schedule No. 5 or 6”
- (e) replacing subsection (10) with the following -
 “(10) Wherever the tariff heading or subheading or the tariff item or subitem under which any goods are classified in Schedule No. 1 is expressly quoted in any item of Schedule No. 3, 4, 5 or 6 in which such goods are specified, the goods so specified in the said item of Schedule No. 3, 4, 5 or 6 shall be deemed not to include goods which are not classified under the said tariff heading or subheading or tariff item or subitem.”;
- (f) replacing the words preceding the Proviso to subsection (11) with -
 “(11) Any goods entered for use under rebate of duty under this section shall, for the purposes of this Act, be deemed to be entered for home consumption, but no entry in respect of any such goods described in Schedule No. 3 or 4 shall be valid unless the number of the tariff heading and subheading under which such goods are classified in Schedule No. 1 and the number of the item of Schedule No. 3 or 4 in which the said goods are specified are both declared on such entry and the industry in which the purpose for which such goods are to be used, as specified in the said item, are declared on such entry.”;
- (g) replacing the words “Schedule No. 3, 4, 5, 6 or 7” appearing in subsection (12)(a) with the words “Schedule No. 3, 4 or 6”;
- (h) replacing the words “Schedule No. 5, 6 or 7” appearing in subsection (13) with the words “Schedule No. 5 or 6”;
- (i) replacing the words “imported, excisable or sales duty goods” wherever they appear in subsection (13) with the words “imported or excisable goods”;
- (j) replacing the words “Schedule No. 3, 4, 5, 6 or 7” appearing in subsection (17)(a) with the words “Schedule No. 3, 4, 5 or 6”;
- (k) replacing the words “Schedule No. 3, 4, 5, 6 or 7” appearing in subsection (18) with the words “Schedule No. 3, 4, 5 or 6”;

- (l) replacing the words preceding paragraph (a) in subsection (19) with the following -

“(19) Subject to the proviso to section 18(8) and items 412.07, 412.08, 412.09, 531.00, 532.00, 608.01, 608.02, 608.03, 608.04, 615.01, 615.02, and 615.03 of Schedules Nos. 4, 5 and 6 no rebate or refund of duty in respect of any loss or deficiency of any nature of any goods shall be allowed, but the Commissioner may allow the deduction from the dutiable quantity of the undermentioned goods of a quantity equal to the percentage stated below in each case, namely -”:

- (m) replacing the words “Schedule No. 3, 4, 6 or 7” appearing in subsection (20) with the words “Schedule No. 3, 4 or 6”;
- (n) replacing the words “Schedule No. 5, 6 or 7” appearing in subsection (20) with the words “Schedule No. 5 or 6” and
- (o) replacing the words “Schedule No. 3, 4, 6 or 7” appearing in subsection (22) with the words “Schedule No. 3, 4 or 6”.

Amendment of section 76.

28. Section 76 of the principal Act is amended by -

- (a) replacing the words “excisable goods, sales duty goods or surcharge goods” - appearing in subsection (1) with the words “excisable goods or surcharge goods”;
- (b) replacing subsection (2)(b) with the following -
 “(b) the duty having been assessed on a value higher than the value for duty purposes;” and
- (c) deleting the words “or sales duty goods” appearing in the Proviso to subsection (5).

Amendment of section 77.

29. Section 77 of the principal Act is replaced with -

“Set-off of certain amounts.

77. (1) A licensee of a duty warehouse who, in terms of the regulations, is permitted to pay any duty monthly or quarterly, and who -

- (a) paid any duty for which he was not liable; or
- (b) granted any provisional refund in terms of section 75(1 bis); or
- (c) becomes entitled to a refund in terms of item 534.00 of Schedule No. 5 or any item of Schedule No. 6,

may, subject to the approval of the Commissioner, at any time within a period of two years from the date on which that duty was paid, such provisional refund was granted or such licensee became entitled to such refund, set-off such duty, provisional refund or amount refundable against that particular duty for which such licensee subsequently becomes liable, except that the duty refundable in terms of the said item 534.00 be set-off against the excise duty specified in Section B of Part 2 of Schedule No. 1 for which such licensee subsequently becomes liable, provided the monthly or quarterly accounts or bills of entry submitted by such licensee in respect of the payment of any duty against which any duty, provisional refund or amount refundable has been set-off are accompanied by a full statement by such licensee, supported by a certificate by an officer, giving full particulars and a full account of the circumstances in respect of such set-off and by such documentary evidence as the Commissioner may in each case require.

(2) If such set-off is not approved by the Commissioner in terms of subsection (1), it shall be debited to the account of such licensee.”.

Amendment of section 80.

30. Section 80 of the principal Act is amended by deleting the words “or sales duty goods” appearing in subsection (1)(b).

Amendment of section 81.

31. Section 81 of the principal Act is replaced with the following -

“Non-declaration in respect of certain goods.

81. Any person who contravenes or fails to comply with the provisions of section 13 shall be guilty of an offence and liable on conviction to a fine not exceeding E5,000 or treble the value of the goods in question, whichever is the greater, or to imprisonment for a period not exceeding two years, or to both, and the goods in question and any other goods contained in the same package as well as the package itself shall be liable to forfeiture.”

Amendment of section 102.

32. Section 102 of the principal Act is amended by replacing the words “imported, excisable or sales duty goods” appearing in subsection (1) with the words “imported or excisable goods”.

Amendment of section 105.

33. Section 105 of the principal Act is amended by deleting the words “or sales duty goods” wherever they appear in subsection (1).

Deletion of section 108.

34. Section 108 of the principal Act is hereby deleted.

Amendment of section 114.

35. Section 114 of the principal Act is amended by -

- (a) replacing the words “excise or sales duty” appearing in subsection (1) with the words “excise duty”;
- (b) replacing the words “excise or sales duty” appearing in subsection (1 bis) with the words “excise duty”; and
- (c) inserting after subsection (1 bis) the following new subsection (1 ter) -

“(1 ter) Any capital goods in respect of which any surcharge has been withdrawn in terms of any permit issued by the Minister of commerce, Industry and Tourism shall be subject to a lien as security for the surcharge so withdrawn until the conditions specified in such permit have been complied with the satisfaction of the Minister, as if such goods are detained in accordance with the provisions of subsection (4) unless other security is furnished to the satisfaction of the Commissioner.”

Amendment of Section 118.

36. Section 118 of the principal Act is amended by deleting the words “and of sales duty goods manufactured in and imported into Swaziland” appearing in subsection (1).

Amendment of Section 120.

37. Section 120 of the principal Act is amended by -

- (a) replacing subsection (1) (b) with the following -
 - “(b) determining services for which charges shall be payable, the rate and the method of payment of such charges and the conditions attaching to such services;”
- (b) replacing the words “excise and sales duties” appearing in subsection (1) (h) with the words “excise duties”; and
- (c) replacing the words “Schedule No. 3, 4, 5, 6 or 7” appearing in subsection (1) (k) with the words “Schedule No. 3, 4, 5 or 6”.

THE MOTOR VEHICLE ACCIDENTS ACT, 1991

(Act No. 13 of 1991)



MSWATI III

King of Swaziland

19th August 1991

AN ACT
entitled

An Act to establish a Motor Vehicle Accidents Fund and to impose a levy on fuel for the purpose of paying compensation in respect of bodily injuries or death arising from the use of motor vehicles and to provide for other matters connected therewith.

ENACTED by the King and the Parliament of Swaziland.

Short Title.

1. This Act may be cited as the Motor Vehicle Accidents Act, 1991.

Interpretation.

2. (1) In This Act, unless the context otherwise requires:

“business” does not include any unlawful business;

“conveyed,” in relation to the conveyance of a person in a motor vehicle, includes entering or mounting the motor vehicle for the purpose of being so conveyed or alighting from the motor vehicle after having been so conveyed;

“fuel” means petrol or diesel;

“Minister” means the Minister responsible for Finance,

“motor dealer” means a person who, as a business or trade, manufacture, assembles, repairs or deals in motor vehicles:

“motor vehicle” means any vehicle designed or adapted for propulsion or haulage on a road by means of any power (not being exclusively human or animal power) without the aid of rails, and includes any trailer of such a vehicle;

“MVA Fund” means the Motor Vehicle Accidents Fund established by section 3;

“owner,” in relation to -

- (a) a motor vehicle which a motor dealer has in his possession during the course of his business and which may, in terms of any law relating to the licensing of motor vehicles, not be driven or used on a public road except under the authority of a motor dealer’s licence of which the motor dealer concerned is the holder, means that motor dealer;
- (b) a motor vehicle which has been received for delivery by a motor dealer in the course of his business of delivering new vehicles and which has not yet been delivered by him, means that motor dealer;
- (c) a motor vehicle which is the subject of a hire purchase agreement, means the purchaser under the hire-purchase agreement in question;

- (d) a motor vehicle leased under an agreement of lease for a period of at least 12 months, means the lessee concerned;

“repealed Act” means the Compulsory Motor Vehicle Insurance Order, 1973 and the Compulsory Motor Vehicle Insurance (Amendment) Act, 1987 repealed by section 21 of this Act;

“reward,” with reference to the conveyance of any person in or on a motor vehicle, does not include any reward rendering such conveyance illegal in terms of any provision of the Road Traffic Act, 1965;

“special circumstances” does not include any neglect, omission or ignorance;

(2) For the purposes of this Act a motor vehicle which is being propelled by any mechanical, animal or human power or by gravity or momentum shall be deemed to be driven by the person in control of the vehicles.

(3) For the purposes of this Act a person who has placed or left a motor vehicle at any spot shall be deemed to be driving that motor vehicle while it is stationary at that spot or at a spot to which it moved from the original spot as a result of gravity.

(4) Whenever any motor vehicle has been placed or left at any spot, it shall, for the purposes of this Act, be presumed, until the contrary is proved, that such vehicle was placed or left at such spot by the owner thereof.

Establishment of MVA Fund.

3. (1) There is hereby established a body corporate to be known as the Motor Vehicle Accidents Fund (referred to in this Act as the “MVA Fund”) with perpetual succession and common seal and which may sue and be sued in its corporate name.

(2) The MVA Fund may acquire, hold and dispose of any movable or immovable property or enter into such contracts as may be necessary for the purposes of the Fund.

Powers of the MVA Fund.

4. The MVA Fund -

- (a) shall have the power to investigate or settle claims referred to in section 10 arising from the driving of a motor vehicle or commence, conduct, defend or abandon legal proceedings in connection with such claims;
- (b) may invest any monies not immediately required for the conduct of its business in such manner as may from time to time be determined by the Minister, and may realize, alter or re-invest such investments in such manner as may from time to time be determined by the Minister;
- (c) may, subject to the approval of the Minister in every case, borrow money and secure the payment thereof in such manner as it may deem fit;
- (d) shall utilize its funds for any purpose connected with or resulting from the exercise of its powers or the performance of its duties;
- (e) may do all such other things as are incidental or conducive to the exercise of its powers or the performance of its duties.

Monies and audit of the MVA Fund.

5. (1) The monies of the MVA Fund shall consist of the motor vehicle accidents levy imposed on fuel under section 6 and any income derived from the investment of monies of the Fund.

(2) The monies of the MVA Fund shall be exempt from income tax.

(3) The MVA Fund shall keep proper records of all its assets and liabilities.

(4) The books of accounts and other related records of the Fund shall be audited annually by an auditor appointed by the Supervisory Board.

(5) As soon as possible after each audit under subsection (4) but not later than three months after each such audit the Supervisory Board shall submit to the Minister the audited balance sheets and report of the auditor in respect of such audit together with a report on the activities of the MVA Fund during the year to which the audit relates.

Imposition of Motor Vehicle Accidents levy.

6. (1) The Minister, in consultation with the Minister responsible for energy, may impose a motor vehicle accidents levy on fuel and the levy shall be of such amount as the Minister may, by notice published in the Gazette, determine.

(2) Any person who imports fuel in bulk from any place outside Swaziland shall pay the levy imposed under subsection (1) at the time of such importation or at such other time, whether before or after such importation, as the Minister may prescribe and also the Minister may prescribe the manner of making payment and collection of such levy.

(3) Any person who fails to pay a levy under this Act or in accordance with Regulations made thereunder shall be guilty of an offence and on conviction be liable to a fine of E5,000 or to imprisonment of two years or to both such fine and imprisonment.

Purpose of the Motor Vehicle Accidents levy.

7. The levies collected under this Act shall become public monies and shall be used for the purpose specified in section 10 of this Act.

Administration and management of the MVA Fund.

8. The Minister may enter into an agreement or make such other arrangements with the Swaziland Royal Insurance Corporation established by the Swaziland Royal Insurance Corporation Order, 1973 or with any other person for the purposes of administering and managing the MVA Fund.

Supervisory Board.

9. (1) The Minister shall establish a Supervisory Board which shall supervise the operations and management of the Fund and may, subject to any directive given by the Minister on matters of policy, decide on matters relating to -

- (a) the financial position of the MVA Fund;
- (b) the financing of the MVA Fund; and
- (c) any matter from time to time referred to it by the Minister.

(2) The members of the Supervisory Board shall be appointed by the Minister, and shall consist of such number but not exceeding nine as the Minister shall determine.

(3) A member of the Supervisory Board shall be appointed for such period and on such conditions including such allowances, if any, as the Minister may determine.

(4) The Supervisory Board may demand the production to it of statistics, books, accounts or other documents relating to the MVA Fund for the purpose of examination or making extracts therefrom or copies thereof.

(5) The Supervisory Board shall meet at least once every quarter of a year and shall submit quarterly report to the Minister on the financial position of the Fund.

Liability of MVA Fund.

10. (1) The MVA Fund shall, subject to the provisions of this Act and to such conditions as may be prescribed, be utilised for the purpose of compensating any injured person or, in the event of death, any dependent of the deceased or, where reasonable funeral expenses only is payable, the relatives of the deceased (in this Act called "the third party") for any loss

or damage which the third party has suffered as a result of:

- (a) any bodily injury to himself;
- (b) the death of or any bodily injury to any person;

which in either case is caused by or arises out of the driving of any motor vehicle by any other person at any place in Swaziland and the injury or death is due to the negligence or other unlawful act of the person driving the motor vehicle (in this Act called "the driver") or of the owner of the motor vehicle or his servant in the execution of his duty.

(2) No interest shall be payable on the amount of any compensation which a court awards to any third party under subsection (1), unless 30 days have elapsed from the date of the courts' order.

(3) In issuing any order as to costs on making such award, the court may take into consideration any written offer in settlement of the relevant claim made by the MVA Fund before the relevant summons was served on it.

(4) A claim for compensation under subsection (1) -

- (a) includes a claim for the costs of the future accommodation of any injured person in a hospital or nursing home or the treatment of or provision of service or goods to that person;
- (b) includes a claim for future loss or income or support.

(5) Where a third party entitled to compensation under this section -

- (a) has incurred costs in respect of accommodation of himself in a hospital or nursing home or the treatment of or provision of any service or goods to, himself; or
- (b) on the recommendation of a medical practitioner and with the prior written approval of the MVA Fund, has incurred costs in respect of accommodation of any person in a hospital or nursing home or the treatment of, or provision of any service or goods to, any such other person.

The person who provided the accommodation, treatment, service or goods (in this case called the "supplier") may claim the amount from the MVA Fund on the prescribed form and such claim shall be subject *mutatis mutandis* to the provisions applicable to the claim of the third party concerned.

Liability limited in certain cases:

11. (1) The liability of the MVA Fund to compensate a third party in connection with any one occurrence for any loss or damage under section 10 resulting in any bodily injury to or the death of the third party who, at the time of the occurrence which caused that injury or death was being conveyed in or on the motor vehicle concerned, shall be limited -

- (a) to the sum of E25,000 in respect of any bodily injury to or death of any one such person or to the sum of E250,000 in all in respect of any bodily injury to, or the death of, any number of such persons, (but in either case exclusive of the cost of recovering such compensation) who at the time of the occurrence which caused that injury or death was being conveyed in the motor vehicle in question -
 - (i) for reward;
 - (ii) in the course of the business of the owner or the driver of that motor vehicle; nor
 - (iii) in the case of an employee of the driver or owner of that motor vehicle, in respect of whom subsection (2) of this section does not apply, in the course of his employment ; or

- (b) in the case of a person who was being conveyed in the motor vehicle concerned under circumstances other than those referred to in paragraph (a), to the sum of E12 000 in respect of loss of income or support and the cost of accommodation in a hospital or nursing home, treatment, provision of service or goods as a result of bodily injury to or the death of one such person, plus the cost of recovering such compensation but excluding the payment of compensation in respect of any other loss or damage;

Provided that the total liability under this paragraph in respect of any number of such persons shall be limited to E100,000.

(2) Where the loss or damage referred to in section 10 is suffered as a result of bodily injury or death of an employee of the driver or owner of the motor vehicle concerned and the third party is entitled to compensation under the Workmen's Compensation Act, 1983 in respect of such injury or death -

- (a) the liability of the MVA Fund, in respect of the bodily injury to or death of anyone such employee shall be limited in total to the sum representing the difference between the amount which that third party could, but for the provisions of this paragraph, have claimed from the MVA Fund or the amount to which that third party is entitled by way of compensation under that Act;
- (b) the total liability of the MVA Fund, in connection with any one occurrence to pay compensation under paragraph (a) to third parties shall be limited to the sum of E60 000 irrespective of the number of such employees whose bodily injuries or deaths were caused by or arose out of that occurrence; and
- (c) the MVA Fund shall not be liable under the Workmen's Compensation Act, 1983 for the amount of the compensation to which any such third party is entitled to under that Act, but nothing contained in this subsection shall relieve the MVA Fund from liability to pay costs awarded against it in any legal proceedings.

Liability excluded in certain cases,

12 (1) The MVA Fund shall not compensate any third party under section 10 for any loss or damage -

- (a) for which neither the driver nor the owner of the motor vehicle concerned would have been liable if section 13 had not been enacted;
- (b) suffered as a result of bodily injury to or the death of any third party who, at the time of the occurrence which caused that injury or death -
- (i) was being conveyed for reward on a motor vehicle which is a motor cycle; or
- (ii) is a person referred to in section II (1) (b) and a member of the household, or responsible in law for the maintenance of the driver of the motor vehicle concerned, and was being conveyed in or on the motor vehicle concerned; or
- (c) if the claim concerned has not been instituted and prosecuted by the claimant, or on behalf of the claimant by any person entitled to practice as an attorney within Swaziland.

Claim for compensation lies against MVA Fund only.

13. Where a third party is entitled under section 10 to claim from the MVA Fund any compensation in respect of any loss or damage as a result of any bodily injury or death caused by or arising out of the driving of a motor vehicle by the owner thereof or by another person with the consent of the owner, that third party shall not be entitled to claim -

- (a) compensation in respect of that loss or damage from the owner or from the person who so drove the vehicle; or
 - (b) compensation in respect of that loss or damage from his employer, if that person drove the vehicle as a servant in the execution of his duty;
- unless the MVA Fund is unable or refuses to pay the compensation.

Submission of information.

14. (1) If, as the result of the driving of a motor vehicle, any person other than the driver of such motor vehicle is killed or injured, the owner and the driver, if he is not the owner, of the motor vehicle shall (if reasonably possible within 21 days after the occurrence) furnish the MVA Fund with -

- (a) particulars of the occurrence, the place and time of the occurrence, the name and address (if known) of any person who was killed or injured and of every person who was upon the vehicle in question at the time of the occurrence, a description of any other vehicle involved in the occurrence and the name and address (if known) of the driver of every such other vehicle who witnessed the occurrence;
- (b) any other information at his disposal which the MVA Fund may from time to time request him to furnish.

(2) Any person who fails to comply with any provision of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding E200, unless he proves that his inability or failure to comply with the relevant provision is not due to his own action or default.

(3) The MVA Fund shall within 21 days after the third party has complied with the provisions of section 16(2)(b), furnish the third party or his agent with a copy of the information referred to in subsection (1) (a) of this section.

(4) Any person who furnishes false information in respect of the particulars of registration and the licence relating to the motor vehicle at the time of an occurrence involving that vehicle out of which a claim has been made under section 10, shall be guilty of an offence and liable on conviction to a fine not exceeding E200.

Prescription.

15. (1) Notwithstanding the provisions of any other law in Swaziland relating to prescription, and subject to the provisions of subsection (2) of this section, the right to claim compensation under section 10 shall become prescribed upon the expiration of a period of two years from the date on which the claim arose:

Provided that the period of prescription shall be suspended during the period of ninety days referred to in section 16(2)(a) of this Act.

- (2) Prescription of a claim for compensation under section 10 shall not run against -
 - (a) a minor;
 - (b) any person detained as a patient under the Mental Health Order, 1978;
 - (c) a person under curatorship.

(3) If a third party's claim for compensation has become prescribed under subsection (1) and a court having jurisdiction in respect of such a claim is satisfied, upon application by the third party concerned -

- (a) in the case where the claim became prescribed before compliance by that third party with the provisions of section 16(1), that by reason of special circumstances he, or if he instructed another person to comply with those

provisions on his behalf, such person could not reasonably have been expected to comply with those provisions before the date on which the claim became prescribed; or

- (b) in the case where the claim became prescribed after compliance by him with the provisions of section 16(1), that by reason of special circumstances he or, if he instructed any other person to act on his behalf in that regard, such person could not reasonably have been expected to serve on the MVA Fund before the date on which the claim became prescribed any process by which the running or the prescription could have been interrupted; and
- (c) that the MVA Fund is not prepared to waive its right to invoke the prescription;

the court may grant leave to the third party to comply with the said provisions and serve process in any action for enforcement of the claim on the MVA Fund in accordance with the provisions of section 16(2) before a date to be determined by the court.

- (4) The court shall not grant an application referred to in subsection (3) unless -
 - (a) the application is made within a period of ninety days after the date on which the claim became prescribed under subsection (1); and
 - (b) the third party has given security to the satisfaction of the court for the costs of the MVA Fund in connection with the application.

(5) A plea of prescription under subsection (1) shall not be upheld in any action in which the relevant process was served on the MVA Fund by virtue of leave granted under subsection (3) of this section.

(6) Notwithstanding the provisions of the Workmen's Compensation Act, 1983, any right to recover an amount which under that Act is required to be paid to a third party in circumstances other than those mentioned in subsection 11(2) of this Act, shall for the purposes of subsection (1) (excluding the proviso) and subsection (3) of this section be deemed to be a right to claim compensation under section 10 of this Act arising from the same cause as the claim of such third party under that section:

Provided that if the recovery of any such amount has become debarred under this subsection, any compensation thereafter awarded to the third party under this Act shall be reduced by that amount.

Procedure.

16. (1) A claim for compensation under section 10 shall -
- (a) be set out in the prescribed manner on a prescribed form and shall include provision of a medical report or reports completed by the prescribed person or persons, in regard to the cause of the death or the nature and treatment of the bodily injury in respect of which the claim is instituted and of the prescribed supporting proof and particulars;
 - (b) be sent by registered post or delivered by hand, at the registered office or local branch office, of the MVA Fund which shall, in the case of delivery by hand, acknowledge receipt thereof and the date of such receipt in writing.
- (2) No such a claim shall be enforceable by legal proceedings commenced by a summons served on the MVA Fund -
- (a) before the expiration of a period of ninety days as from the date on which the claim was sent by registered post or delivered by hand to the MVA Fund in accordance with subsection (1); and

- (b) before all the prescribed requirements of the MVA Fund have been complied with:

Provided that if the MVA Fund repudiates in writing liability for the claim before the expiration of the ninety days, the claimant may at any time after such repudiation serve summons on the MVA Fund.

(3) An action to enforce such a claim may be brought in any Court of competent jurisdiction in Swaziland within whose area of jurisdiction the occurrence which caused the injury or death took place.

MVA Fund's right of recourse.

17. (1) Where any compensation has been paid under section 10 the MVA Fund may, subject to subsections (2) and (3) of this section, and without having obtained a formal cession of the right of action, recover from the owner of the motor vehicle concerned or from any person whose negligence or other unlawful act caused the loss or damage in question so much of the amount paid by way of compensation as the third party could, but for the provisions of section 12, have recovered from the owner or from the person whose negligence or other unlawful act caused the loss or damage if the MVA Fund had not paid any such compensation.

(2) The MVA Fund shall not have any such right of recourse against the owner of the motor vehicle -

- (a) in any case if, at the time of the occurrence which gave rise to the payment of the compensation the motor vehicle was being driven by a person other than the owner unless -
- (i) such a person was under the influence of intoxicating liquor or of a drug to a degree that his condition was the sole cause of such occurrence and the owner knew or ought to have known that such driver was under the influence of intoxicating liquor or of a drug;
 - (ii) such a person was driving the motor vehicle without holding a licence issued under the law relating to the licensing of drivers of motor vehicles which he was required to hold, or that person being the holder of a learner's or other restricted licence issued under such law failed, while he was driving the motor vehicle to comply with the requirements or conditions of such learner's or restricted licence, and the owner allowed him to drive the motor vehicle when he knew or ought to have known that such driver did not hold such licence or that he failed to comply with the requirements or conditions of such learner's or restricted licence, as the case may be; or
- (b) in any case where, at the time of that occurrence, such motor vehicle was being driven by the owner, unless -
- (i) he was under the influence of intoxicating liquor or of a drug to such a degree that his condition was the sole cause of such occurrence; or
 - (ii) he was driving the motor vehicle without holding a licence issued under the law relating to the licensing of drivers of motor vehicles or being the holder of a learner's or other restricted licence issued under such law failed, while he was driving the motor vehicle, to comply with the requirements or conditions of such learner's or restricted licence;
- (c) in any case where neither paragraph (a) nor paragraph (b) applies unless the owner has failed to comply with any requirements of section 14 with respect to such occurrence (the onus of proving that the MVA Fund could not reasonably within 21 days after the occurrence have been informed of the occurrence and of the place and time thereof shall be on the owner concerned) or has knowingly furnished the MVA Fund with false information relating to that occurrence or knew or ought to have known at

the time such occurrence that the motor vehicle was unroadworthy and that the unroadworthiness of the motor vehicle was the sole cause of such occurrence.

(3) The provisions of subsection (2)(b)(i) and (ii) and (c) shall apply *mutatis mutandis* in respect of any right of recourse by the MVA Fund under subsection (1) against any person who, at the time of the occurrence which gave rise to the payment of the compensation was driving the motor vehicle in question with the consent of its owner.

Regulations.

18. (1) The Minister may make regulations for the better carrying out of the purposes and provisions of this Act, and, in particular may make regulations with respect to any of the following matters -

- (a) prescribing anything required by this Act to be prescribed, and the manner in which any form so prescribed shall be completed or rendered;
- (b) prescribing the powers and duties in connection with the administration of this Act which may be exercised or performed by such persons as the Minister may designate;
- (c) after consultation with the Minister for the time being responsible for health, prescribing the tariff of fees in respect of the accommodation of any person in hospital or nursing home or of any treatment, services or goods supplied to any person which may be claimed under section 10 (5) for the cost of such accommodation, treatment, services or goods;
- (d) matters in respect of which statistics are to be kept by the MVA Fund, the manner in which such statistics shall be compiled and the furnishing of information in connection therewith;

or prescribing or otherwise dealing with any matter which may under this Act be prescribed or otherwise dealt with by regulations.

(2) Regulations made under subsection (1) may provide for penalties not exceeding a fine of E500 for contravention thereof or failure to comply therewith or with any order or direction given thereunder.

Application of Public Enterprises (Control and Monitoring) Act.

19. Without prejudice to the provisions of this Act the provisions of sections 7, 10 and 11 of the Public enterprises (Control and Monitoring) Act, 1989 shall apply to the MVA Fund.

Act to bind the Government.

20. This Act shall bind the Government.

Repeal of Compulsory Motor Vehicle Insurance Order, etc.

21. The Compulsory Motor Vehicle Insurance Order, 1973 and the Compulsory Motor Vehicle Insurance (Amendment) Act, 1987 are hereby repealed.

Savings.

22. (1) On the commencement of this Act the Fund established under the repealed Act shall cease to exist and all amounts credited to that Fund immediately before such commencement shall vest in the MVA Fund and all existing liabilities and rights of that Fund are hereby transferred to the MVA Fund.

(2) Notwithstanding section 21 of this Act all claims for compensation filed with the authorised insurer under the repealed Act before the commencement of this Act and which have not been settled on the commencement of this Act by the authorised insurer shall be settled by the MVA Fund in accordance with the provisions of the repealed Act.

(3) Notwithstanding section 21 of this Act any agreement or arrangement entered not or made by the Minister with the Swaziland Royal Insurance Corporation or with any

other person under the repealed Act for the purposes of administering and managing the levy under that Act and which is in force immediately before the commencement of this Act shall continue in force as if such agreement or arrangement has been entered into or made under this Act.

LEGAL NOTICE NO. 100 OF 1991

THE COMMISSION OF ENQUIRY ACT 1963

(Act No. 35 of 1963)

COMMISSION OF ENQUIRY INTO THE MONOPOLY STATUS
OF THE SWAZILAND ROYAL INSURANCE CORPORATION NOTICE 1991

(Under Section 3)

In exercise of the powers conferred by section 3 of the Commission of Enquiry Act, 1963, the Minister for Finance hereby issues the following Notice -

Citation and commencement.

1. This Notice may be cited as the Commission of Enquiry into the Monopoly Status of the Swaziland Royal Insurance Corporation Notice 1991 and shall be deemed to have come into force on the 24th July 1991.

Establishment of Commission.

2. (1) There is hereby established a commission to be known as the Commission of Enquiry into the Monopoly Status of the Swaziland Royal Insurance Corporation, hereafter referred to as "the Commission".

(2) The Commission shall be composed of the following members -

Mr Paul M. Shilubane	-	Chairman
Dr Gugulethu Z. Gule	-	Member
Mr Timothy V. Mtetwa	-	Member
Mr Derek Von Wissell	-	Member
Mr John W.S. Bennet	-	Member
Mr Winford R. Ndhlovu	-	Secretary

Functions of the Commission.

3. The Commission shall review the report by Deloitte Pim Goldby Consultants' (DPG) on the monopoly status of the Swaziland Royal Insurance Corporation and in particular shall -

- (a) publish a summary of the consultants' findings with a view to inviting representations from members of the public on the monopoly status of the Swaziland Royal Insurance Corporation;
- (b) collate and analyse the views of the public on the findings of the consultants on the monopoly status of the Swaziland Royal Insurance Corporation;
- (c) make such recommendations to the Minister as it shall deem necessary.

Enquiry venue.

4. (1) The enquiry shall be held at the Conference Room of the Ministry of Finance or any other place and at such times as the Commission may determine.

(2) For the purposes of the enquiry, three members of the Commission shall constitute a quorum.

Enquiry in camera.

5. Except where the Minister for Finance otherwise directs the enquiry shall be held in camera, and the Commission shall take such steps as to preserve the secrecy of the proceedings and recommendations.

Duration of enquiry.

6. The Commission shall commence its functions on the 24th July, 1991 and shall submit its report to the Minister for Finance by the 31st October 1991 or on such later date as the Minister may permit.

B.S. DLAMINI
Minister for Finance

Mbabane
30th August 1991

LEGAL NOTICE NO. 101 OF 1991

THE UMBUTFO SWAZILAND DEFENCE FORCE ORDER 1977

(Order No. 10 of 1977)

APPOINTMENT OF COMMISSIONED OFFICER TO THE
UMBUTFO SWAZILAND DEFENCE FORCE

(Under Section 13)

In exercise of the powers conferred on me by the above-mentioned Order, I, MSWATI III, King of Swaziland do hereby appoint:-

WARRANT OFFICER II KHUZA DLAMINI

as SECOND LIEUTENANT to the Umbutfo Swaziland Defence Force with effect from 1st April, 1991.

SIGNED AT LOZITHA ON THIS 19 DAY OF AUGUST, 1991.

MSWATI III
KING OF SWAZILAND

LEGAL NOTICE NO. 102 OF 1991

THE CIVIL SERVICE ORDER, 1973

APPOINTMENT OF ACTING PRIVATE SECRETARY
(Under Section 8)

In exercise of powers vested in me, and in accordance with Section 8 of the Civil Service Order, 1973, I hereby appoint -

JOSEPH B. SIBANYONI

to be Acting Private Secretary in the King's Office with effect from 20th July, 1991 to 19th August, 1991.

SIGNED AT LOZITHELEZI THIS 11TH DAY OF SEPTEMBER, 1991.

MSWATI III
KING OF SWAZILAND

LEGAL NOTICE NO. 103 OF 1991

THE CENTRAL BANK OF SWAZILAND ORDER, 1974

(Order No. 6 of 1974)

The Central Bank of Swaziland Statement of Assets and Liabilities as at 31st August 1991.

(Under Section 52)

In exercise of the powers conferred by Section 52 of the Central Bank of Swaziland Order, 1974, the Minister for Finance hereby issues the Statement of Assets and Liabilities in the Schedule to this Notice.

I.S. SHABANGU
Principal Secretary

CENTRAL BANK OF SWAZILAND
Balance Sheet as at 31st, August 1991

	1991 E'000.
CAPITAL EMPLOYED	
Capital	1 000
General Reserve	5 681
	6 681
 LIABILITIES	
Currency in Circulation	69 282
Allocation of SDR	24 623
Domestic Deposits	430 740
External Liabilities	6 952
Other Liabilities	25 856
Forward Contracts for Purchase of Currency	213 627
	777 761
 ASSETS	
Fixed Assets	6 621
External Assets	531 149
Claims on Swaziland Government	-
Claims on Banks	15 709
Claims on Private Sector	8 787
Other Assets	1 868
Counterpart Forward Position	41 434
Forward Contracts for Sale of Currency	172 193
	777 761

H.B.B. OLIVER, CBE
Governor