



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

VOL. XXXVI]

MBABANE, Tuesday, November 24th., 1998

[No. 418

CONTENTS

No.		Page
PART B-KING'S ORDERS-IN-COUNCIL		
4.	The ^{Act} Identification Order, 1998	S1
5.	The ^{Act} Electoral Office Order, 1998	S8
PART C-LEGAL NOTICES		
142.	Assignment of Responsibilities of the King's Office Notice, 1998	S11

THE IDENTIFICATION ORDER, 1998

(Order No. 4 of 1998)



I ASSENT

MSWATI III
KING OF SWAZILAND

12th November, 1998

AN ORDER-IN-COUNCIL
entitled

An Order to provide for the compilation and maintenance of a population register and the issuance of identity documents.

ENACTED by the King in collaboration with the Council.

Arrangement of sections.

1. Short title and commencement.
2. Interpretation.
3. Compilation and maintenance of population register.
4. Particulars of persons which shall be included in population register.
5. Assignment of identity and birth entry numbers.
6. Certificates of particulars of birth.
7. Identity documents.
8. Temporary identity documents.
9. Photographs.
10. Fingerprints.
11. Change of place of residence or postal address.
12. Verification of particulars.
13. Correction, cancellation and replacement.
14. Surrender or seizure of identity documents of deceased persons.
15. Secrecy.
16. Offences and penalties.
17. Reproduction of documents.
18. Regulations.

Short title and commencement.

1. This Order may be cited as the Identification Order, 1998, and shall come into operation on such date as the Minister may by notice published in the Gazette, determine.

Interpretation.

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

“Certificate of particular of birth” means Certificate issued at the time of birth of a person;

“fingerprints” include palmprints;

“identity document” means an identity document issued under section 3;

“Minister” means Minister for Justice and Constitutional Affairs;

“population register” means the population register referred to in section 3;

“prescribed” means prescribed by regulations;

“Registrar” means the Registrar General or any other officer delegated by him to perform any duty under this Order;

“temporary identity document” means a document issued in terms of section 8;

Compilation and maintenance of population register.

3. (1) The Registrar shall, in the prescribed manner compile and maintain a population register of all persons who are lawfully resident in Swaziland.

(2) The particulars required for the compilation and maintenance of the population register shall be obtained by the Registrar from documents available to him.

Particulars of persons which shall be included in population register.

4. (1) There shall, in respect of every person whose name is included in the population register, be entered the following particulars of that person -

- (a) his birth entry number referred to in section 5 (3);
- (b) the required particulars to be furnished when notice of birth is given;
- (c) if he has attained the age of 16 years, his ordinary place of residence and his postal address;
- (d) if he is a citizen of Swaziland but is not such a citizen by birth, the date of his naturalisation or registration as such a citizen, and if he is not a citizen or was not born in Swaziland, the date of his entry into Swaziland, and the country of which he is a citizen and the date of his entry into Swaziland;
- (e) his occupation, profession, trade or employment;
- (f) date of registration;
- (g) a recent photograph, if he has attained the age of 16 years;
- (h) in the case of a non citizen, particulars concerning his passport and residence permit;
- (i) particulars of his driver's licences, if any, issued or valid under or by virtue of a law in force in Swaziland;
- (j) after his death, the required particulars furnished when notice of his death was given, and on permanent departure from Swaziland, the date of such departure, and particulars concerning the cancellation in the prescribed manner of his identity document;

(k) his region, Chief and Indvuna; and

(l) such other particulars as may be determined by the Minister by notice in the Gazette.

Assignment of identity and birth entry numbers.

5. (1) The Registrar shall assign an identity number and a birth entry number to every person whose name is included in the population register.

(2) An identity number shall be compiled in the prescribed manner out of figures and shall, in addition to a serial, index and control number, consist in figure codes, the following particulars, of the person to whom it has been assigned, namely -

(a) his sex and date of birth; and

(b) the fact whether or not he is a Swaziland citizen and if he is a Swazi his region, Chief and Indvuna.

(3) A birth entry number shall be compiled in the prescribed manner out of figures and shall consist of the same numbers and figure codes as those of an identity number.

Certificates of particulars of birth.

6. (1) The Registrar shall after inclusion in the population register of the name of a person referred to in section 3 (1) who has not attained the age of 16 years, issue a certificate of particulars of birth to such person.

(2) A certificate of particulars of birth shall contain the following particulars;

(a) the birth entry number referred to in section 5 (3) and the date of issue of the certificate of particulars of birth;

(b) the full name, date of birth, place or country of birth and;

(c) citizenship status of the person concerned.

Identity documents.

7. (1) (a) The Registrar shall on receipt of an application in the prescribed manner for an identity document by a person referred to in section 3 (1) who has attained the age of 16 years, and after the person concerned has complied with the provisions of section 9, issue an identity document in the prescribed manner to such person.

(b) The application referred to in paragraph (a) shall be made within such period as may be prescribed in respect of a specified person or category of persons.

(2) An identity document may contain only the following particulars in relation to the person to whom it was issued.

(a) his identity number referred to in section 5 (2) and the date of issue of the identity document;

(b) his full name, sex and date of birth, and the place where such person was born;

(c) whether or not he is a citizen of Swaziland;

- (d) a recent photograph of himself;
- (e) his fingerprints; and
- (f) his region, Chief and Indvuna.

Temporary identity document.

8. When a person has applied for an identity document, or has for official purposes lodged his identity document with the Registrar, the Registrar may on application issue to the person concerned whose particulars are included in the population register in terms of section 4, a temporary identity certificate in the prescribed manner, which, for the period and on the conditions mentioned therein, shall for the purposes of this Order be regarded as his identity document.

Photographs.

9. Every person referred to in section 3 (1) who has attained the age of 16 years shall furnish two prescribed copies of a recent photograph of himself to the Registrar when -

- (a) he applies for an identity document in terms of section 7; or
- (b) his identity document is required to be replaced by an improved one in terms of section 13.

Fingerprints.

10. (1) Subject to subsection (2) every person referred to in section 3 (1) who has attained the age of 16 years shall, when he applies for an identity document, have his fingerprints taken so that they may be included in the population register.

(2) If the fingerprints cannot be taken, the Registrar shall decide on the manner of identification for purposes of this section.

Change of place of residence or postal address.

11. Every person whose name is included in the population register shall, if he has attained the age of 16 years and an identity document has thereafter been issued to him, after any permanent change of his place of residence or his postal address, notify the Registrar within the prescribed time and in the prescribed manner of that change of residence or postal address.

Verification of particulars.

12. The Registrar may -

- (a) request any person to furnish him with proof of the correctness of any particulars which have been furnished in respect of such person in any document in terms of this Order, and
- (b) investigate or cause to be investigated any matter in respect of which particulars are required to be recorded in the population register.

Correction, cancellation and replacement.

13. (1) If -

- (a) an identity document does not reflect correctly the particulars of the person to whom it was issued, or contains a photograph which is no longer a recognisable image of that person; or
- (b) a temporary identity certificate or a certificate of particulars of birth does not reflect correctly the particulars of the person to whom it was issued;

the person concerned or the guardian of the person to whom the certificate of particulars of birth was issued, as the case may be, shall within the prescribed period hand over or send by registered post the identity document, temporary identity certificate or certificate of particulars of birth, as the case may be, to the Registrar.

(2) If the identity document, temporary identity document or certificate of particulars of birth referred to in subsection (1) is not handed over or sent, the Registrar may obtain restoration thereof or seize it.

(3) If by virtue of this section the Registrar has obtained possession of an identity document temporary identity document or a certificate of particulars of birth, he shall effect the necessary corrections or in the prescribed manner cancel it and replace it with a correct identity document, temporary identity document or certificate of particulars of birth, as the case may be.

(4) When it comes to the attention of the Registrar that an identity document has been issued to a person whose name is not required in terms of section 3 to be included in the population register, the Registrar shall request that person to return the identity document to him for cancellation.

Surrender or seizure of identity documents of deceased persons.

14. (1) Any person or next of kin who has in his possession an identity document, temporary identity document or certificate of particulars of birth document, being or purporting to be an uncanceled identity document of a person who has died, shall within thirty days after the death of the holder thereof, hand over or send by registered post such document for cancellation to the Registrar.

(2) A document handed over or sent to the Registrar in terms of subsection (1), shall without delay after the receipt thereof be cancelled in the prescribed manner.

(3) If the person referred to in subsection (1) above fails to comply, the Registrar shall seize the document.

Secrecy.

15. (1) Subject to subsection (2), every person appointed under, or employed in carrying out the provisions of, this Order shall preserve and aid in the preservation of secrecy with regard to all information or documents which may come to the person's knowledge in connection with the performance of duties under this Order, and shall not communicate any such information or the contents of such documents to any other person except in the performance of the person's duties under this Order or by order of a competent Court, and no person who came into possession of any such information which to his knowledge has been communicated to him in contravention of the provisions of this section, shall publish the information or communicate it to any other person.

(2) Subsection (1) does not prohibit the disclosure of information or documents to -

- (a) the Minister or any other person where the disclosure is necessary for the purposes of this Order, or
- (b) any person who has applied in writing specifying in detail the purposes for which the information is required and the Registrar is satisfied that the furnishing of that information is in the interest of the person whose name is included in the population register, or is in the public interest.

Offences and penalties.

16. (1) It shall be an offence for a person -

- (a) to make or cause to be made a false statement;
- (b) having come into possession of an identity document, a certificate of particulars of birth or temporary identity document belonging to another person, represent it as his own or belonging to any person other than the person to whom it belongs or fail to hand it over or send it to the Registrar;
- (c) to imitate, alter, deface, destroy or mutilate any identity document, certificate of particulars of birth or temporary identity document or cause it to be done or allow it to be done;
- (d) to possess any identity document, a certificate of particulars of birth or temporary identity certificate which has been imitated, altered, defaced or mutilated or any particulars of which are incorrect;
- (e) to allow an identity document, a certificate of particulars of birth or a temporary identity document belonging to him or which is under his control, to come into the possession of any other person for an unlawful purpose;
- (f) to give out that any incorrect particulars in an identity document, a certificate of particulars of birth or a temporary identity document are correct;
- (g) employed for the purposes of this Order, to publishes or communicates to any person otherwise than in the ordinary course of duties, any information or document acquired by him in the performance of his duties under this Order;
- (h) having in possession of any information or document which to his knowledge has been disclosed in contravention of this Order, to publishes or communicates that information to any other person;
- (i) without lawful cause to fails or refuses to comply with a request in terms of section 12 (a) or 13 (4); or
- (j) without lawful cause fails or refuses to comply with a provision of section 7 (1)(b); 10; 11; 13 (1) or 14 (1);

(2) A person who commits an offence against this section is liable to a fine not exceeding E5 000 or imprisonment for a period not exceeding 12 months.

(3) A court convicting any person of an offence referred to in subsection 1 (b), (c) or (d) shall -

- (a) declare the document or certificate in respect of which the offence was committed to be forfeited to the State; and

- (b) declare any instrument used for the purpose of or in connection with the commission of the offence, or the convicted person's rights thereto to be forfeited to the State:

Reproduction of documents.

17. (1) Notwithstanding anything to the contrary contained in any other law, the Registrar may reproduce or cause to be reproduced any document from which the population register is compiled or maintained by means of any process which in his opinion accurately and durably reproduces such document, and may preserve or cause to be preserved that reproduction in lieu of such document.

(2) A reproduction referred to in subsection (1) shall, notwithstanding anything to the contrary contained in any other law, for all purposes be deemed to be the original document from which it was reproduced, and a copy of such reproduction certified to be a true copy of the original by the Registrar shall in any court of law be conclusive proof of the contents of the original document.

Regulations.

18. The Minister may make regulations as to -

- (a) the issue of duplicate identity documents, certificates of particulars of birth and temporary identity documents, the circumstances under, and the conditions subject to, which they may be issued and the fees payable therefor;
- (b) the issue of certificates in respect of particulars contained in the population register or in an identity document, the purposes for which such certificates may be used and evidential value thereof;
- (c) the purposes for which such identity documents, temporary identity documents and certificates of particulars of birth may be used;
- (d) the making of special arrangements in connection with the inclusion of the names of persons in the population register in exceptional circumstances;
- (e) the issuing of instructions and the prescribing of forms by the Registrar which may be necessary for the effective carrying out of the provisions of this Order,

and, in general, as to all matters which, in terms of this Act, are required or permitted to be prescribed or which he deemes necessary or expedient to prescribe in order that the objects of this Act may be achieved.

(Order No. 5 of 1998)



I ASSENT

MSWATI III
KING OF SWAZILAND

12th November, 1998

AN ORDER-IN-COUNCIL
entitled

An Order to establish the Electoral Office and to provide for matters incidental thereto.

ENACTED by the King in collaboration with the Council of Ministers.

Short title and commencement.

1. This Order may be cited as the Electoral Office Order, 1998 and shall come into force on such date as the Minister may by Notice in the Gazette, appoint.

Interpretation.

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

“Chief Electoral Officer/Mphatsi Lukhetfo” means the person appointed under section 5 as the Chief Electoral Officer/Mphatsi Lukhetfo;

“Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo” means the person appointed under section 5 as the Deputy Electoral Officer/Liphini Mphatsi Lukhetfo;

“Minister” means the Minister responsible for Elections;

“Office” means the Office referred to in section 3; and

“Officer” means an officer of the Office referred to in section 8;

Office of Chief Electoral Officer/Mphatsi Lukhetfo.

3. (1) There shall be an Office to be known as the Office of the Chief Electoral Officer/Mphatsi Lukhetfo which shall consist of the Chief Electoral Officer/Mphatsi Lukhetfo, the Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo and other officers of the Office.

(2) The Office shall perform such functions as are conferred upon it under this Order or any other law.

(3) The Office of Chief Electoral Officer/Mphatsi Lukhetfo shall be a public office.

Functions of the Office.

4. (1) The functions of the Office are to -

- (a) supervise and conduct elections of the elected members of the House of Assembly at both primary and secondary level;
- (b) supervise and conduct elections of Tindvuna teTinkhundla at both primary and secondary level;
- (c) supervise and conduct elections of Bucopho beTinkhundla;
- (d) conduct continuous civic education on the electoral process before and after election;
- (e) conduct by-elections of members of Parliament, Tindvuna teTinkhundla and Bucopho in the event of death, imprisonment or other eventuality;
- (f) prepare and maintain a general register of elections;
- (g) prepare and distribute such materials and pamphlets on the electoral process;
- (h) to prepare and submit the report referred to in section 10.
- (i) generally to administer the provisions of this Order.

(2) For the purpose of the exercise of the functions under subsection (1), the Chief Electoral Officer/Mphatsi Lukhetfo may give such directions as he considers necessary or expedient to any law regulating the registration of voters or the conduct of elections and any officer to whom directions are given shall comply with those directions.

Appointment of Chief Electoral Officer/Mphatsi Lukhetfo and Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo.

5. (1) Subject to subsection (2), the King in consultation with the Minister, shall appoint the Chief Electoral Officer/Mphatsi Lukhetfo and Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo for a period not exceeding five (5) years and on such other terms and conditions as the King may determine.

(2) A person shall qualify for appointment as Chief Electoral Officer/Mphatsi Lukhetfo or Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo in terms of subsection (1) if he -

- (a) is a citizen of Swaziland;
- (b) has not been declared insolvent or declared bankrupt under any law in force in any country and has not been discharged or has made a composition with his creditors and has not made them in full;
- (c) has not been convicted of any offence involving dishonesty in any country;
- (d) is not certified as insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Swaziland.

(3) The Chief Electoral Officer/Mphatsi Lukhetfo and Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo shall be eligible for re-appointment after the expiration of their respective terms of office.

(4) The Chief Electoral Officer/Mphatsi Lukhetfo shall be responsible for the administration of the Office subject to any specific or general direction of the King.

(5) In the performance of their functions and the carrying out of their duties, the Chief Electoral Officer/Mphatsi Lukhetfo and Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo shall be independent and shall not be subject to the control of any with regard to the process of election.

Removal from office of Chief Electoral Officer/Mphatsi Lukhetfo or Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo.

6. The King may, in consultation with the Minister, remove the Chief Electoral Officer/Mphatsi Lukhetfo or Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo from office for inability to perform the functions of his office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

Acting Chief Electoral Officer/Mphatsi Lukhetfo.

7. (1) If the Office of Chief Electoral Officer/Mphatsi Lukhetfo is vacant or the Chief Electoral Officer/Mphatsi Lukhetfo is absent from duty or unable for any other reason to perform the functions of his office, the Deputy Chief Electoral Officer/Deputy Mphatsi Lukhetfo shall act as Chief Electoral Officer/Mphatsi Lukhetfo.

(2) If both Chief Electoral Officer/Mphatsi Lukhetfo and Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo are absent from duty or unable for any other reason to perform the functions of their office, the King shall, subject to section 5, appoint another person to act as Chief Electoral Officer/Mphatsi Lukhetfo.

Officers of the office.

8. The Civil Service Board may on the advice of the Chief Electoral Officer/Mphatsi Lukhetfo, cause to be seconded or transferred from the public service to the Office such officers as he may deem necessary for the efficient discharge of the functions of the Office.

Applicability of Laws governing the Public Service.

9. Except as otherwise provided in this Order, the Chief Electoral Officer/Mphatsi Lukhetfo, Deputy Chief Electoral Officer/Liphini Mphatsi Lukhetfo, secondment or transfer of support staff and other officers of the Office shall be subject to such laws and regulations as are generally applicable to officers in the public service.

Submission of report.

10. (1) The Chief Electoral Officer/Mphatsi Lukhetfo shall, on completion of any election of elected Members of the House of Assembly under this Order, submit to the King and to the Minister, a report on the activities of the Office during that election period.

(2) The Minister shall, not later than three months after the House of Assembly first meets in terms of the Standing Order, cause the report referred to in subsection (1) to be laid before Parliament and if Parliament is not sitting, within fourteen days of the next sitting of Parliament.

Regulations.

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

LEGAL NOTICE NO. 142 OF 1998

THE ESTABLISHMENT OF THE PARLIAMENT OF SWAZILAND ORDER, 1992
(Order No. 1 of 1992)

ASSIGNMENT OF RESPONSIBILITIES TO THE KING'S OFFICE NOTICE, 1998
(Under section 49 & 53)

In exercise of the powers vested in me by sections 49 and 53 of the Establishment of the Parliament of Swaziland Order, 1992, I, **MSWATI III, KING OF SWAZILAND** hereby issue the following Notice -

Citation and commencement.

1. This Notice may be cited as the Assignment of Responsibilities to the King's Office Notice, 1998, and shall come into force with immediated effect.

Assignment of responsibilities.

2. The following responsibilities are assigned to the King's Office -

- (a) Administration of matters pertaining to the Convention for International Trade in Endangered Species (CITES); and
- (b) Administration of the Game Act.

Amendment of the Assignment of Responsibilities to Ministers Notice No. 194 of 1996.

3. The Assignment of Responsibilities to Ministers Notice No. 194 of 1996 is amended by removing the words "Administration of Game Act" from the list of responsibilities assigned to the Ministry of Tourism and Communication in the Sechedule to that Notice.

DONE AT LOZITH'EHLEZI THIS 12TH DAY OF NOVEMBER, 1998.

MSWATI III
KING OF SWAZILAND