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Swazi Land Settlement Act, 1946

Act 2 of 1946

Legislation as at 1 December 1998

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Swazi Land Settlement Act, 1946

Act 2 of 1946

Commenced on 1 February 1946

[This is the version of this document at 1 December 1998.]

An Act to provide for the establishment, control and development of a land settlement scheme for the Swazi Nation.

1. Short title

This Act may be cited as the Swazi Land Settlement Act, 1946.

2. Interpretation

In this Act, unless the context otherwise requires—

“**agricultural allotment**” means a piece of arable land which has been clearly defined and beacons by the Principal Secretary and allotted to a settler for agricultural purposes in terms of [section 16](#);

“**agricultural superintendent**” means the officer for the time being holding the appointment of agricultural superintendent for the land settlement areas, or any person appointed to act in that capacity;

“**allotment**” includes any agricultural, garden or residential allotment;

“**beacon**” includes any structure, object or indicator erected or placed to mark the boundaries of allotments, grazing areas or commonage or any other land allocated for special purposes;

“**certificate of occupancy**” means a document issued by the Principal Secretary authorising the occupation by a settler of land within the land settlement areas under conditions specified in this Act or any rules issued thereunder;

“**commonage**” means any area set aside for depasturing stock and not reserved for any other purpose;

“**garden allotment**”, when it is not included in a residential allotment, means a piece of arable land which has been clearly defined and beacons by the Permanent Secretary and allotted to a settler for garden purposes in terms of [section 16](#);

“**land settlement areas**” means the land set aside for land settlement in terms of [section 3](#);

“**indvuna**” means a Swazi appointed by the Ngwenyama to perform the duties imposed upon him by this Act or any rules issued thereunder;

“**Principal Secretary**” means the Principal Secretary for Agriculture;

“**residential allotment**” means a piece of land which has been clearly defined and beacons by the Principal Secretary and allotted to a settler in terms of [section 16](#) for the purpose of establishing his homestead, including trees, garden and livestock accommodation, and may include a garden allotment;

“**settler**” means the holder of a valid certificate of occupancy;

“**stock**” includes cattle, horses, mules, donkeys, sheep, goats, pigs, poultry and other domestic animals.

3. Setting aside certain area for land settlement

The areas of land described in the Schedule to [Legal Notice No.18 of 1966](#) having been set aside for Swazi land settlement in terms of this Act have by that Notice been vested in the Ngwenyama, as Swazi Nation Land, in trust for the Swazi Nation, subject to any subsisting rights or interests which before the twenty-

second day of April, 1966 were granted to or recognised as vested in any other person other than the Government of Swaziland.

[Amended L.N.38/1967]

4. Control of land settlement areas

All land within the land settlement areas shall, except as may otherwise be especially provided, be under the control and supervision of the Principal Secretary, who shall have the right to delegate to any officer authorised thereto by him in writing from time to time such of the powers and duties vested in him by this Act or by any rules issued thereunder as he may deem necessary or desirable.

5. Prohibition of unauthorised residence

No Swazis shall move on to or take up residence on or cultivate or use any land for any purpose whatsoever in the land settlement area except with the prior written permission of the Principal Secretary issued after consultation with the indvuna of the locality concerned.

6. Removal of unauthorised persons

- (1) The Principal Secretary may for just cause require any person, not being the holder of a valid certificate of occupancy, found within the land settlement areas, forthwith to leave such areas, and may for just cause prohibit any person, not being the holder of such a certificate, from entering or coming upon the areas or any portion thereof.
- (2) Any person failing to leave the areas when required to do so, or coming on to the areas despite such prohibition, shall be guilty of an offence and may be summarily removed from the areas by any policeman acting under a warrant issued under the hand of any judicial officer of a Magistrate's Court having jurisdiction within the area concerned.

7. Allocation of land for allotments, afforestation and commonage

It shall be lawful for the Principal Secretary to allocate land in the land settlement areas for agricultural, residential and garden allotments, for afforestation and for commonage.

8. Allocation of land for special purposes

- (1) The Principal Secretary may, subject to such conditions and terms as the Ngwenyama may approve, allocate land in the land settlement areas for—
 - (a) burial grounds, sites for churches, schools, health centres, or for any other public or official purpose he may deem desirable for the progress and welfare of settlers; or
 - (b) for sport or other recreation; or
 - (c) for any other purpose which he may approve.
- (2) The Principal Secretary shall cause to be maintained in a register a detailed record of all allocations of land made under this section.
- (3) Written authority embodying the conditions and terms of such allocation may be delivered to the person or persons to whom such allocation is made.

9. Right to construct roads, etc., across allotments

- (1) The Principal Secretary may at any time, without payment of compensation, permit or cause to be constructed any road, path, drain, furrow or railway across any allotment, but if such construction absorbs a material portion of the allotment the occupier may be granted another allotment, or, if land is available near or adjacent to the allotment, an additional area equivalent to the material loss he may sustain on the original allotment.

- (2) No settler shall cause any road, path, railway, drain or furrow traversing any of his allotments to be deviated, blocked, obstructed or in any way interfered with, save with the permissions of the Principal Secretary.
- (3) Any person contravening subsection (2) shall be guilty of an offence.

10. Right of entry upon allotments

- (1) The Principal Secretary or any other person authorised by him in writing, and an ndvuna within the local limits of his jurisdiction, shall at all reasonable times have the right to enter upon and inspect any allotment and inspect any buildings thereon.
- (2) Any person obstructing the Principal Secretary or such ndvuna in the exercise of such right shall be guilty of an offence.

11. Control of grass-burning, etc.

- (1) Except with the permission and under the orders of the Principal Secretary no person shall set fire to or in any other manner destroy grass, trees or any other growth on the commonage.
- (2) Any person contravening this section shall be guilty of an offence.

12. Liability of residents to communal labour

- (1) The Principal Secretary in respect of the land settlement areas, and an indvuna within the local limits of his jurisdiction, may order any able bodied Swazi male adult resident therein to assist in—
 - (a) the suppression of any grass fire on the land settlement areas which in the opinion of the Principal Secretary or such ndvuna, as the case may be, is a menace to life or property;
 - (b) the burning of any fire-lines on the land settlement areas;
 - (c) the eradication of any noxious weeds on the commonage.
- (2) A resident who refuses or fails, without good cause, to give reasonable assistance upon receiving an order under subsection (1) shall be guilty of an offence.

13. Duties of settlers

- (1) Settlers shall be responsible individually and collectively for the maintenance and care of—
 - (a) roads and paths separating allotments;
 - (b) water furrows and other means of conveying water on or adjacent to allotments; and
 - (c) laundry blocks, taps and all other facilities provided for the maintenance of a pure water supply for settlers.
- (2) Every settler shall also be responsible for—
 - (a) keeping his residential allotment free from maintaining a proper system of sanitation in accordance with the written instructions of the Principal Secretary.
- (3) Any settler who fails to carry out the duties imposed by this section shall be guilty of an offence.

14. Alteration, etc., of beacons

Any person who shall, without the permission of the Principal Secretary, alter, remove, deface or in any other manner interfere with any beacon shall be guilty of an offence.

15. Communal responsibility of settlers

- (1) In the event of any beacon, dam, borehole, grass strip or other anti-erosion construction, bridge, gate, fence, furrow, latrine, piping, road, street, tap, wall, building or other work, the property of the Ministry of Agriculture or the Ngwenyama, being damaged, destroyed or removed, it shall be the duty of the occupier of the allotment nearest to the place where such damage, destruction or removal has occurred to report such damage, destruction or removal to the Principal Secretary.
- (2) On receipt of information that any item enumerated in subsection (1) has been damaged, destroyed or removed, an administrative officer with jurisdiction to hold a magistrate's court of the first or second class shall summarily and without pleadings hold an enquiry in loco in the presence of the occupiers of allotments in the vicinity for the purpose of ascertaining and determining the amount, nature, extent and the perpetrator of such damage, destruction or removal, and the cost of the repair or replacement thereof.
- (3) The administrative officer referred to in subsection (2) may require the perpetrator to bear the cost of such repair or replacement:

Provided that the perpetrator shall not be adjudged to be responsible for such cost unless he shall have been given an opportunity of being present either personally or by his representative at such enquiry and of representing his case:

Provided further that any order made under this subsection shall not bar or prevent any prosecution under any other law.

- (4) Any sum of money becoming payable in terms of this section and remaining unpaid for one month may be recovered under this Act under a warrant issued by such administrative officer by levy against the movable property of the settler or settlers on whom such responsibility has been fixed, and any money so recovered shall be paid by such administrative officer into the funds of and for the use of the Ministry of Agriculture, or the Ngwenyama in trust for the Swazi Nation, as the case may be.

16. Grant of allotments

- (1) The Principal Secretary may, after consultation with the ndvuna of the locality concerned, grant or cancel permission to any Swazi to occupy allotments upon such terms and conditions as may from time to time be prescribed by rules issued under this Act:

Provided always that no such permission shall be granted in respect of an agricultural allotment unless permission is granted concurrently in respect of a residential allotment and of a garden allotment where the garden allotment is not included in the area of the residential allotment.
- (2) Notwithstanding anything to the contrary contained in the Stamp Duty Act, [No. 37 of 1970](#), no certificate of occupancy shall be liable to stamp duty.

17. Prohibition of alienation of allotments or improvements

The rights of occupation to any allotment, whether agricultural, garden or residential, shall not be alienated, transferred, mortgaged or sublet in whole or in part, nor shall any improvement on any allotment be pledged or mortgaged for debt or for any other reason to any person, and any agreement purporting to effect a transfer of rights contrary to this section shall be null and void.

18. Reallotment in case of death of settler

- (1) Upon the death of a settler his rights of occupation shall *ipso facto* be cancelled and his allotment shall become immediately available for reallotment in descending order of preference—
 - (a) to a widow of the deceased; or

- (b) to an heir of the deceased, if any, who is eligible and willing to take over the allotment; or
 - (c) in the case of a minor heir, to the guardian of such heir during his minority; or
 - (d) to any other applicant for allotments.
- (2) Any improvements to such allotments, not inherited by the heirs of the deceased, shall be dealt with in accordance with rules issued under this Act.

19. Rights of occupation to be free of rental

No rental shall be charged for the rights of occupation granted to settlers in terms of this act.

20. Demarcation and control of grazing areas

- (1) The Principal Secretary may cause to be demarcated such localities in the land settlement areas, by beaconing or fencing or in any other clear manner as he may deem necessary, for rotational grazing purposes, and such demarcated localities shall be grazed only for such periods and at such seasons as shall be laid down by the Principal Secretary.
- (2) The owner or person in charge of any stock found trespassing on such demarcated localities which have been closed to grazing shall be guilty of an offence.

21. Demarcation and control of areas for afforestation

- (1) In order to make provision for the timber requirements of the Ministry of Agriculture and of settlers for fuel, building material and other purposes, the Principal Secretary may cause to be demarcated such land in such localities in the land settlement areas as he may deem necessary from time to time for the purpose of afforestation.
- (2) Every settler shall have the sole right to the use of timber planted by him on such demarcated areas, under the directions of the Principal Secretary, while he is in possession of a valid certificate of occupancy.
- (3) Any timber planted by the Ministry of Agriculture for the benefit of settlers or for other public purposes connected with the Land Settlement Scheme shall belong to the Ministry of Agriculture and shall be exploited in such manner as the Principal Secretary may direct.

22. Consultation between Ngwenyama and ministry

- (1) The Ngwenyama may, on all occasions deemed necessary by him, arrange for the discussion of points of importance affecting the policy and administration of the Swazi Land Settlement Scheme with the Principal Secretary and/or senior members of his staff.
- (2) The Principal Secretary shall cause the result of any such discussion to be recorded in writing and shall transmit a copy to the Ngwenyama.

[Amended L.N.38/1967]

23. Power to make rules

The Ministry for Agriculture with the approval of the Ngwenyama may by notice in the *Gazette* make rules for the land settlement areas—

- (a) prescribing the duties and powers of the Principal Secretary and other officers of the Ministry for Agriculture;
- (b) prescribing forms, registers and other records;
- (c) prescribing conditions regarding the size, grant, tenure, surrender and cancellation of residential, agricultural and garden allotments;

- (d) prescribing the demarcation, use and control of grazing areas or commonage;
- (e) regulating the introduction or removal of stock and the control of numbers and kinds of stock;
- (f) regulating the construction, maintenance, repair and demolition of buildings and other structures;
- (g) providing for the valuation of and compensation for improvements and the liability for improvements on re-allotment;
- (h) providing for the use, maintenance, system of husbandry and care of allotments and contour grass strips, dividing access lanes, roads, water furrows, drainage channels and other water works;
- (i) regulating the use of wheeled vehicles and sledges;
- (j) prescribing conditions for the expropriation of allotments;
- (k) regulating the demarcation, the liability for planting and control of areas for afforestation;
- (l) regulating the prevention and control of disease, insect, plant and other pests;
- (m) prescribing conditions for the grant, renewal or suspension of revenue licences on land settlement areas;
- (n) providing for industrial development and co-operative trading including the necessary financial control, provision of funds, control of labour, wages and salaries, the percentage of returns for workers, the purchase and/or erection of buildings and machinery, the development of power, the planting of trees, or other crops or plants, the manufacture, purchase and sale of industrial and agricultural products and the disposal of revenue from these and other sources under the Land Settlement Scheme set out in Schedule I:

and generally for the better carrying out of the objects and purposes of this Act.

24. Penalties

Any person who is found guilty of an offence against, or contravention of, this Act or of any rule issued thereunder, or who fails to comply with any lawful order, notice, direction or prohibition thereunder, shall be liable—

- (a) on a first conviction to a fine not exceeding ten emalangeni or in or in default of payment thereof imprisonment not exceeding two weeks;
- (b) on a second or subsequent conviction to a fine not exceeding twenty emalangeni or in default of payment thereof, imprisonment not exceeding one month.

Schedule I

(Land set aside for land settlement in terms of section 3)

[Amended P.34/1964]

Description	Diagram No.	Extent
		Hectares
Hhohho		
Farm No. 1121 formerly Remaining Extent of Land Concession No. 92L	S.G. No. S. 46/10	26 643,6950
Portion A of Farm No. 64	S.G. No. S. 26/17	791,6709
Farm No. 1123 formerly Portion 1 of Portion A of Land Concession No. 11P	S.G. No. S. 25/17	444,7399
Farm No. 1124 formerly Remaining extent of Portion A of Land Concession No. 11P	S.G. No. S. 71/14	1236,3794
Farm No. 1109 formerly Unallotted Land No. 3	S.G. No. S. 185/10	322,3058
Lubombo		
Farm No. 12	S.G. No. S. 6/11	8205,0993
Farm No. 13	S.G. No. S. 29/11	8985,9037
Remaining Extent of Farm Groenings No. 690	S.G. No. S. 35/11	3289,0778
Farm No. 1144 formerly Remaining of Crown Land Area Lot No. 214	S.G. No. S. 5/26	543,3938
Farm No. 1110 formerly Unlotted Land No. 26	S.G. No. S. 191/10	2026,0260
Lubombo		
Remaining Extent of Portion of Land Concession No. 109L	S.G. No. S. 115/12	679,4467

Manzini		
Farm No. 216	S.G. No. S. 116/12	105,5847
Farm Fourie No. 516	S.G. No. S. 110/10	349,2980
Farm No. 697	S.G. No. S. 82/10	211,1679
Farm No. 1145 formerly Remaining of Crown Land Area Lot No. 176	S.G. No. S. 81/11	1255,2474
Lubombo		
Farm No. 667	S.G. No. S. 11/15	10508,8415
Farm Zinyamatulu No. 582	S.G. No. S. 27/26	1768,8866
Farm No. 709	S.G. No. S. 46/22	428,2688
Farm No. 710	S.G. No. S. 47/22	428,2630
Farm Quaggawater No. 628	S.G. No. S. 9/20	3272,2113
Remainder of Portion No. 165 of Crown Land Area Lot No. 166	S.G. No. S. 16/20	1337,0461
Portion No. 13 of Crown Land Area Lot No. 166	S.G. No. S. 1/28	1283,3516
Portion No. 14 of Crown Land Area Lot No. 166	S.G. No. S. 39/19	3615,0510
Remainder of Portion No. 17 of Crown Land Area Lot No. 166	S.G. No. S. 6/20	1915,4735
Portion No. 19 of Crown Land Area Lot No. 166	S.G. No. S. 8/20	1712,3869
Farm No. 1085	S.G. No. S. 13/20	2212,3374
Shiselweni		

Farm No. 495	S.G. No. S. 53/14	755,6752
Farm No. 496	S.G. No. S. 38/15	974,9473
Remaining Extent of Farm No. 293	S.G. No. S. 17/15	171,9916

Schedule II (Under section 3 of the Act)

[Amended P.34/1964]

The deeds of transfer specified in the first column of the Schedule shall be deemed to have been lawfully executed and to have lawfully vested lands described in the persons specified in the second column on the dates specified in the third column.

(1)	(2)	(3)
Deeds of transfer	Persons in whom land vested	Dates of vesting
No. 90 of 1949	Peak Timbers Ltd.	5.8.1949
No. 154 of 1950	Peak Timbers Ltd.	22.12.1950
No. 130 of 1949	Colonial Development Corporation	29.10.1949