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Parliamentary Privileges Act, 1967

Act 126 of 1967

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Parliamentary Privileges Act, 1967

Act 126 of 1967

Assented to on 25 August 1967

Commenced on 25 August 1967

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

An Act to define and declare the Powers, Privileges and Immunities of the Parliament of Swaziland, secure Freedom of Speech and Debate or Proceedings in Parliament and to give protection to Persons employed in the Publication of Parliamentary Papers and to provide for Matters incidental thereto.

1. Short title

This Act may be cited as the Parliamentary Privileges Act, 1967.

2. Interpretation

In this Act, unless the context otherwise requires—

"**Clerk**" means the person appointed as clerk of the Senate or the House of Assembly or both, as the case may be, or acting as such on the authority of the Speaker of the Senate or the House of Assembly, as the case may be;

"**committee**" means any standing, sessional, special or select committee of the Senate or House of Assembly or a committee of both Houses sitting jointly or a joint committee of both Houses;

"**House**" means the Senate or the House of Assembly;

"**journals**" means—

- (1) the minutes of proceedings of the Senate; or
- (2) the votes and proceedings of the House of Assembly; or
- (3) the minutes of proceedings of both Houses sitting jointly;

"**member**" means a member either of the Senate or of the House of Assembly;

"**officer of Parliament**" means the Clerk or Clerk-Assistant of the Senate, the Clerk or Clerk-Assistant of the House of Assembly, the Gentleman Usher of the Black Rod, the Sergeant-at-Arms, and such other officers or persons as may be appointed from time to time to the staff of either House;

"**Parliament**" means the Senate and the House of Assembly: sitting jointly or either House sitting separately or a committee;

"**precincts of Parliament**" means the chamber and offices of either or both Houses and any galleries and places provided for the use and accommodation of members of the public and representatives of the press, and includes, while a House is sitting, and subject to any directions of the Speaker, the entire building in which the chamber of that House is situated, and any forecourt, yard, garden, enclosure or open space adjoining or appertaining to such building and used or provided for the purposes of the House;

"**Speaker**" means the member for the time being presiding over the Senate or the House of Assembly or over a joint sitting of both Houses, as the case may be, and shall include a Deputy Speaker and an Acting Speaker of either House;

"**Standing Orders**" means the Standing Orders of either House or of both Houses.

3. Freedom of speech and debate

There shall be freedom of speech and debate or proceedings in Parliament and such freedom shall not be liable to be impeached or questioned in any court or place outside Parliament.

4. Powers and jurisdiction of Senate and House of Assembly

For the purpose of this Act the Senate and the House of Assembly sitting jointly or separately shall, subject to the provisions of this Act, possess such powers and jurisdiction as may be necessary for enquiring into, judging and pronouncing upon the commission of any act, matter or thing herein declared to be a contravention of this Act.

5. Rights and privileges of Senate and House of Assembly sitting as a court

The Senate and the House of Assembly, sitting jointly or separately as a court, shall subject to the provisions of this Act have all such rights and privileges of a court of law as may be necessary for the purpose of summarily enquiring into and punishing any act, matter or thing herein declared to be contravention of this Act.

6. Stay of process in respect of matters of privilege

At any stage of any civil or criminal proceedings instituted for or on account or in respect of any matter of privilege, upon production to the court or judge by the defendant or accused, of a certificate by the Speaker, or, in his absence or other incapacity, by the Clerk stating that the matter in question is one which concerns the privilege of Parliament, that court or judge shall immediately stay such proceedings, which shall thereupon be deemed to be finally determined.

7. Attendance of members and officers before Senate or House of Assembly

No member or officer of Parliament shall in pursuance of any request—

- (a) in the case of a member or an officer of the Senate, attend before the House of Assembly or a committee thereof without the consent or order of the Senate or, during an adjournment of the Senate, of the Speaker thereof; or,
- (b) in the case of a member or an officer of the House of Assembly, attend before the Senate or a committee thereof without the consent or order of the House of Assembly or, during an adjournment of the House of Assembly, of the Speaker thereof.

8. Members and officers exempted from certain obligations

- (1) No member or officer of Parliament shall be required, while in attendance on Parliament, to attend as a witness in any civil proceedings in any court, unless that court holds its sittings at the seat of Parliament.
- (2) No civil proceedings in which a member or officer of Parliament is a defendant shall, while that member or officer is in attendance on Parliament, be brought to trial in a court that holds its sittings elsewhere than at the seat of Parliament.
- (3) No member shall be liable to arrest—
 - (a) for any civil debt whilst going to, attending at, or returning from a sitting of Parliament;
 - (b) within the precincts of Parliament while Parliament is sitting, for any criminal offence, without the consent of the Speaker.
- (4) No court process shall be served or executed—
 - (a) within the precincts of Parliament while Parliament is sitting; or

- (b) through the Speaker or an officer of Parliament.
- (5) A certificate by the Speaker stating that a member or officer of Parliament is in attendance on Parliament shall be sufficient proof of such attendance.

9. Members not liable to proceedings in certain cases

No member shall be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of any matter or thing which he may have brought by petition, Bill, resolution, motion or otherwise or may have said before or in Parliament.

10. Persons not liable for acts done under authority of Parliament

No person shall be liable in damages or otherwise for any act done under the authority of Parliament and within its legal powers, or under any warrant issued by virtue of those powers.

11. Parliament empowered to punish for contempt

- (1) Parliament may for or in respect of any offence mentioned in subsection (3), whether committed by a member or by any other person, summarily punish for contempt by fine or otherwise, as provided by the Standing Orders of Parliament or by this Act.
- (2) If any fine or punishment imposed in terms of subsection (1) is not immediately paid or undergone the offender shall be committed to the custody of the person in charge of any prison or of an officer of Parliament in such places as Parliament may direct, for a period ending not later than the last day of the then current session.
- (3) Any person who—
 - (a) disobeys any order made by Parliament or a committee duly authorized thereto, for the attendance before or the production of any paper, book, record or document to Parliament or such committee, except where the person concerned has been excused from such attendance or production in terms of [section 22](#);
 - (b) refuses to be examined before, or to answer any lawful and relevant question put by, Parliament or any committee referred to in paragraph (a) unless such refusal has been excused in terms of [section 22](#);
 - (c) wilfully fails or refuses to obey any rule, order or resolution of Parliament;
 - (d) whether directly or indirectly offers to any member or officer of Parliament any bribe in order to influence him in his conduct as such member or officer, or offers to any member or officer of Parliament any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill or matter submitted to or intended to be submitted to Parliament; or,
 - (e) being a member, accepts or agrees to accept or obtains or attempts to obtain for himself or for any other person any bribe, fee, compensation, reward or benefit of any kind for speaking, voting or acting as such member or for refraining from so speaking, voting or acting or on account of his having so spoken, voted or acted or having so refrained; or
 - (f) assaults, molests, insults, or obstructs any member coming to, being within, or going from the precincts of Parliament, or endeavours to compel any member by force, insult or menace to declare himself in favour or against any proposition or matter pending in or expected to be brought before Parliament; or
 - (g) assaults, molests, insults, resists or obstructs any officer of Parliament while in the execution of his duty or while proceeding to or from Parliament knowing or having reasonable grounds for believing him to be such an officer; or

- (h) creates or joins in any disturbance or incites any other person to create or join in any disturbance which interrupts or is likely to interrupt the proceedings of Parliament while Parliament is sitting; or
- (i) presents to Parliament any false, untrue, fabricated or falsified document with intent to deceive Parliament; or
- (j) utters or publishes any false or scandalous slander or libel on Parliament, or upon any member in his capacity as such; or
- (k) attempts, directly, by fraud, or by threats or intimidation of any kind, to influence a member in his vote, opinion, judgment or action, upon any question arising in Parliament, or to induce him to absent himself from Parliament; or
- (l) threatens, assaults or insults a member or an officer of Parliament on account of his conduct as such member or officer; or
- (m) gives false evidence (in the case of witnesses not examined on oath), or is guilty of prevarication or other misconduct as a witness before Parliament; or
- (n) destroys or damages any document which has been ordered to be produced before Parliament; or
- (o) abstracts any record or other document from the custody of the Clerk or falsifies or improperly alters any record of or document presented to Parliament; or
- (p) endeavours, directly or indirectly, to deter or hinder any person from appearing or giving evidence before Parliament; or
- (q) tampers with a witness in regard to evidence to be given by him before Parliament; or
- (r) threatens or in any way punishes, damnifies, or injures or attempts to punish, damnify, or injure any person for having given evidence before Parliament or on account of the evidence which he has given before Parliament; or
- (s) publishes any evidence taken by, or document presented to, Parliament where such evidence has been taken with closed doors, or where its publication has been expressly prohibited by Parliament;

shall be guilty of an offence and liable on conviction to a punishment not exceeding—

- (i) a fine of four hundred rand, or, in default of payment thereof, to imprisonment not exceeding two years, or to such imprisonment without the option of a fine; or,
- (ii) if a lesser penalty is provided therefor in Standing Orders, such lesser penalty.

12. Member not to vote upon any matter in which he has a direct pecuniary interest

- (1) Subject to the provisions of subsection (3), a member shall not in or before Parliament vote upon or take part in the discussion of any matter in which he has a direct pecuniary interest.
- (2) Any member who contravenes subsection (1) may be adjudged guilty of contempt of Parliament by the House of which he is a member and shall be liable to the penalties provided in this Act for such contempt.
- (3) The provisions of subsection (1) shall not apply to any vote or discussion concerning any remuneration or allowance to be received by members in their capacity as such, or to any interest which a member may have in any matter in common with the public generally or with any class or section thereof.

13. Issue of warrants for arrest and imprisonment

For the purpose of any punishment for any of the contempts of Parliament named in this Act the Speaker may upon a resolution of Parliament issue a warrant under his hand for the arrest and imprisonment of any person sentenced to imprisonment or who fails to pay a fine or undergo a punishment to which he has been sentenced.

14. Form of warrant

- (1) Every warrant referred to in [section 13](#) shall contain a statement that the person therein mentioned has been adjudged guilty of contempt of Parliament and shall specify the nature of such contempt.
- (2) Any such warrant shall be sufficient if it can be reasonably inferred therefrom that the person mentioned therein has been adjudged guilty of any of the contempts of Parliament named in this Act, and it shall not be necessary to observe any particular form in such warrant.

15. Arrest without warrant

Any person creating or joining in any disturbance in Parliament during its actual sitting may be arrested without warrant on the verbal order of the Speaker and may be kept in the custody of an officer of Parliament, designated by the Speaker, until a warrant can be issued for his imprisonment.

16. Execution of warrants and verbal orders

Every sheriff and his deputies and their officers and all police officers, officers of Parliament and other persons shall assist in the arrest and detention of any person in pursuance of any such verbal order as is referred to in [section 15](#) and shall aid and assist in the execution of any warrant issued in terms of [section 13](#) or [33](#) and where any such warrant directs that the person mentioned therein shall be imprisoned in any gaol or other place, the person in charge thereof shall on production to him of such warrant receive such person into his custody in the said gaol or other place and there imprison him according to the tenor of the warrant.

17. Breaking open of doors and searching of premises in execution of warrants

Any person charged with or assisting in the execution of any warrant under the hand of the Speaker may in daytime break open any door or search any premises in which the person for whose arrest such warrant was issued may be or may reasonably be suspected of being concealed.

18. Order to attend before Parliament or a committee

Parliament or any committee which is duly authorized by an order of Parliament to require the attendance of persons or the production of documents or papers may, subject to [section 7](#), order any person to attend before Parliament or such committee and to produce any paper, book, record or document in his possession or under his control.

19. Summoning of witnesses

- (1) An order to attend or to produce any document before Parliament shall be notified to the person required to attend or to produce the document, by summons under the hand of the Clerk issued on the directions of the Speaker.
- (2) In every summons referred to in subsection (1) there shall be stated the time and place at which the person summonsed is required to attend, and the particular document, if any, which he is required to produce.

- (3) A summons referred to in subsection (1) shall be served on the person mentioned therein either by delivering to him in person a copy thereof or by leaving such copy with some adult person at such first-mentioned person's usual or last known place of residence in Swaziland.
- (4) A person summoned in terms of subsection (3) may be paid such sum for his expenses as may be prescribed by Standing Orders.

20. Power to issue warrant to compel attendance of witness

- (1) If a person to whom a summons under [section 19](#) has been directed does not attend at the time and place mentioned therein, the Speaker may, upon being satisfied that the summons was duly served or that the person to whom the summons is directed is wilfully avoiding service thereof, direct the Clerk to issue a warrant, in such form as he may deem fit, to apprehend such person and to bring him before Parliament at a time and place to be stated in the warrant.
- (2) A warrant issued under this section shall be executed by a member of the Swaziland Police.
- (3) The Speaker, on directing the issue of a warrant under this section, may, if he thinks fit, order that an appropriate endorsement be placed on the warrant directing that the person named in the warrant be released after his arrest on his entering into a recognizance before a court for his appearance before Parliament at the time and place stated in the warrant.

21. Examination of witnesses

Parliament may require that any fact, matter or thing relating to the subject of enquiry before Parliament be verified or otherwise ascertained by the oral examination of any witness, and may cause any such witness to be examined upon oath which the Speaker or a person specially designated by the Speaker or, in the case of a committee, the chairman of such committee, as the case may be, for that purpose may administer:

Provided that a person who is in terms of any provision of this Act required to make and subscribe an oath may in lieu of such oath make and subscribe a solemn affirmation in corresponding form.

22. Refusal to answer questions or to produce documents

If any person ordered to attend or to produce any paper, book, record or document before Parliament refuses to answer any question that may be put to him or to produce any such paper, book, record or document, on the ground that it is of a private nature and does not affect the subject of enquiry, the Speaker or in the case of a committee, the chairman of such committee, as the case may be, may report such refusal with the reasons therefor, and Parliament may thereupon excuse such person from answering that question or producing that paper, book, record or document or order that he be required to answer that question or produce that paper, book, record or document.

23. Giving of false answers to questions

Any person who, after being duly cautioned as to his liability to punishment under this section, whether or not he has been sworn or has made a solemn affirmation, wilfully and corruptly gives before Parliament a false answer to any question which is material to the subject of enquiry and which may be put to him in the course of an examination, shall be guilty of an offence and liable on conviction by any court of competent jurisdiction to the penalties prescribed by law for perjury.

24. Privileged evidence

- (1) The rules relating to privileged evidence which are for the time being observed by the High Court of Swaziland shall be observed in the case of evidence before Parliament.
- (2) Except with the consent of the Prime Minister, no person in the employ of the Government shall—
 - (a) produce any paper, book, record or document; or

- (b) give evidence whether of such paper, book, record or document or otherwise;
before Parliament relating to or concerning any naval, military or air force matter.

25. Stay of proceedings for anything done by witness and disclosed by his evidence

- (1) Every witness before Parliament who answers fully and faithfully any question put to him by Parliament to its satisfaction shall be entitled to receive a certificate under the hand of the Speaker or, in the case of a committee, the chairman of the committee, as the case may be, stating that such witness was upon his examination so required to answer and did so answer any such question.
- (2) On production of such certificate in any court of law such court shall stay any civil or criminal proceedings, except for a charge of perjury, subornation of perjury or defeating or obstructing the course of justice, or of an attempt to commit any such crime, against such witness for any act or thing done by him before that time and revealed by his evidence, and may in its discretion award to such witness the expenses to which he may have been put in consequence of such civil or criminal proceedings.

26. Giving of evidence elsewhere of proceedings before Parliament or a committee

- (1) No member, officer of Parliament or stenographer employed to take minutes of evidence given before Parliament, shall give evidence elsewhere in respect of the contents of any evidence given or of any manuscript or document laid before Parliament, or in respect of any proceedings or examination at the Bar of the Senate or the House of Assembly, as the case may be, or before any committee, without first having obtained the special leave of the House of which he is a member, officer or stenographer.
- (2) After a dissolution or during a recess or an adjournment of Parliament such leave may be given by the Speaker of such House or, in his absence or any other incapacity, by the Clerk of such House.

27. Certain persons prohibited from receiving compensation for promotion of or opposition to proceedings in Parliament

- (1) No member and no attorney who in the practice of his profession is a partner or in the service of any member, shall accept or receive, either directly or indirectly, any fee, compensation, gift or reward for or in respect of the promotion of or opposition to any bill, resolution, matter, rule or thing submitted or proposed to be submitted to Parliament for its consideration.
- (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on conviction by a court of competent jurisdiction to a penalty not exceeding two thousand rand and in addition to repay the amount or the value of the fee, compensation, gift or reward accepted or received by him.

28. Admissibility as evidence of Journals printing by order of Parliament

- (1) Upon any enquiry relating to or affecting the privileges, immunities and powers of Parliament or of any member, any copy of the journals printed or purporting to have been printed by order of Parliament shall be admitted as evidence of such journals in all courts and places in Swaziland without any proof being given that such copy was so printed.
- (2) A copy of the journals of the Commons House of Parliament of the United Kingdom printed or purporting to have been printed by the order or by the Printer of the Commons House aforesaid shall be received as *prima facie* evidence without proof of its being such copy upon any enquiry touching the powers, privileges and immunities of Parliament or any member thereof.

29. Penalty for printing or tendering in evidence matter falsely purporting to have been printed under Parliamentary authority

Any person who prints or causes to be printed as purporting to have been printed by the Government Printer or by order or under the authority of Parliament or the Speaker, a copy of any law in force or a copy of any report, paper, minute or minutes of proceedings of Parliament that have not been so printed, or who tenders in evidence any such copy as purporting to have been so printed, knowing that it was not so printed, shall be guilty of an offence and liable upon conviction by a court of competent jurisdiction to imprisonment for a period not exceeding three years.

30. Protection as regards Parliamentary publications

A defendant or an accused in civil or in criminal proceedings instituted for or on account or in respect of the publication by him or his servant, by order or under the authority of Parliament, of any report, paper, minute or minutes of proceedings, may, on giving to the plaintiff or the prosecutor, as the case may be, twenty-four hours' written notice of his intention to do so, bring before the court in which such civil or criminal proceedings are being held, a certificate under the hand of the Speaker or Clerk stating that the report, paper, minute or minutes of proceedings in respect of which such proceedings have been instituted, were published by such person or his servant by order or under the authority of Parliament, together with an affidavit verifying such certificate, and such court shall thereupon immediately stay civil or criminal proceedings, which, together with every process issued therein, shall thereupon be deemed to be finally determined.

31. Protection as regards the publishing of extracts from Parliamentary publications

If in any civil or criminal proceedings instituted for publishing any extract from or abstract of any report, paper, minute or minutes of proceedings referred to in [section 30](#), the court is satisfied that such extract or abstract was published *bona fide* and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or accused.

32. Imprisonment for contravention of Act

- (1) Any person adjudged guilty of a contravention of this Act may, in addition to any other penalty to which he is liable under this Act or any other law, be sentenced to imprisonment for such period during the then current session of Parliament as the Senate or the House of Assembly, whichever enquires into such contravention, may determine.
- (2) A person sentenced to imprisonment in terms of subsection (1) shall be imprisoned under warrant given under the hand of the Speaker.
- (3) The provisions of [section 14](#) and [16](#) shall apply to warrants given under this section.

33. Prosecution before courts of law for contraventions of Act and recovery of penalties

- (1) No prosecution for an offence under this Act shall be instituted except with the written consent of the Attorney-General who may cause any person accused of such contravention or offence to be summonsed for preparatory examination before a court of competent jurisdiction with a view to a prosecution being instituted before the High Court which shall in such a case have and exercise the powers and jurisdiction conferred by this Act or any other law.
- (2) The Attorney-General may sue in the High Court for the recovery of any penalties and other moneys payable under this Act.
- (3) Any sum so recovered and any fine imposed for a contravention of or offence under this Act which is recovered shall be paid into the Consolidated Revenue Fund.

34. Exemption from the requirement of obtaining liquor and trading licences

The provisions of the Trading Licences Act ([No. 27 of 1939](#)) and the Liquor Licences Act, ([No. 30 of 1964](#)) shall not apply to the sale of meals, refreshments, cigarettes, tobacco, matches, or liquor in the lounge, dining room and other refreshment rooms at the Houses of Parliament, if sold under the authority of either House of Parliament or any committee thereof.

[Added by A7/1970]

35. Privilege of Parliament and of the members and officers thereof

Save as is otherwise expressly provided by this Act, the Senate and House of Assembly or either of them and the members thereof respectively shall hold, enjoy and exercise such and the like privileges, immunities, and powers as at the date of commencement hereof are held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and by the members thereof and also such privileges, immunities, and powers as are from time to time defined by any law but not exceeding those which at the commencement of such law are enjoyed and exercised by the Commons House aforesaid and by the members thereof respectively whether such privileges, immunities or powers were so held, possessed or enjoyed by custom, statute or otherwise:

Provided always that no such privileges, immunities, or powers shall at any time exceed those at the same time held and exercised by the Commons House of the said Parliament and by the members thereof.

36. Privileges and powers to be part of law

The privileges, immunities and powers of Parliament, a member and an officer of Parliament, respectively, shall be part of the law of Swaziland, and it shall not be necessary to plead them, but they shall be judicially noticed in all the courts of Swaziland.