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## National Trust Commission Act, 1972

Act 9 of 1972

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## eSwatini

# National Trust Commission Act, 1972

## Act 9 of 1972

Assented to on 9 March 1972

Commenced on 13 March 1972

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

**An Act to provide for the operation of cultural institutions and the proclamation of national parks, monuments and matters incidental thereto.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the National Trust Commission Act, 1972.

#### 2. Interpretation and non-applicability of the Act to certain land

(1) In this Act, unless the context otherwise requires—

“**animal**” means any vertebrate member of the animal kingdom other than a human being, an animal of a usually domesticated species or a fish, and includes the eggs of birds and reptiles;

*[Amended K.O-I-C. 22/1973]*

“**antique**” means an object proclaimed as such under [section 26](#);

“**chief executive officer**” means the chief executive officer of the Commission appointed under [section 7](#);

“**Commission**” means the Swaziland National Trust Commission established in terms of [section 3](#);

“**curator**” means a person appointed to be in charge of a declared institution under [section 11](#);

“**declared institution**” means an institution proclaimed as such under [section 10](#) and includes the Swaziland National Centre;

“**director**” means the person appointed as director of national parks under [section 18](#);

“**hunt**”, with reference to an animal, means to kill, shoot at, capture or attempt to capture, or to follow or search for or lie in wait for with intent to kill, shoot or capture, or wilfully to disturb;

“**institution**” means any art gallery, library, museum, zoological or botanical garden, or other scientific or cultural institution deemed by the Minister to be of a similar character;

“**Minister**” means the Minister for Tourism, Environment and Communication;

“**monument**” means an area or object proclaimed as such by the minister under [section 26](#) and where appropriate includes relics and antiques;

“**national park**” or “**park**” means a national park established under [section 12](#) on land which does not include private land which is under the management and control of the Commission for the objects described in [section 15](#);

*[Added K.O-I-C. 22/1973]*

“**nature reserve**” or “reserve” means a nature reserve established under [section 12](#) on land which may include private land and in respect of which management and control by the Commission are subject to certain private property rights or limitations or restrictions imposed by the Ngwenyama in terms of this Act;

*[Added K.O-I-C. 22/1973]*

“**owner**” in relation to land means a person who has title thereto and any person who has any right or interest in such land;

“**park**” means a national park established under [section 12](#);

“**park official**” means any person, other than a park warden, who is employed by the Commission in a national park or nature reserve;

*[Added K.O-I-C. 22/1973]*

“**park warden**” means the director of national parks and any person appointed as a park warden by the Commission by notice in the *Gazette*;

*[Added K.O-I-C. 22/1973]*

“**poison**” means any chemical or other substance, whether solid, liquid or gas, which is capable of killing, injuring or stupefying vertebrate or invertebrate animals or fish, by contact or ingestion or of destroying vegetation, and includes such substances as insecticides, arboricides, herbicides and cattle dipping compounds;

*[Added K.O-I-C. 22/1973]*

“**private land**” means any land that is not Swazi Nation Land or owned, possessed or occupied by the Government;

*[Added K.O-I-C. 22/1973]*

“**property**” includes any interest in or right over immovable property;

“**relic**” means an object proclaimed as such under [section 26](#);

“**Swaziland National Centre**” means the institution established under [section 9](#);

“**trap**” means any device, including a snare and bird lime, by means of which an animal can be captured whether dead or alive;

*[Amended K.O-I-C. 22/1973]*

“**tree**” means a perennial plant having a self-supporting woody main stem or trunk and growing to a height of not less than five feet, but does not include bushes or shrubs;

“**weapon**” means any fire-arm or ammunition for a fire-arm or any other instrument by means of which a projectile can be propelled, or which can be propelled or used in such a manner that any animal can be killed or injured thereby.

- (2) Subject to the proviso to [section 27\(a\)](#) this Act shall not apply to such land as is sacred or has a special significance according to Swazi law and custom:

Provided that in the event of any doubt as to whether such land is sacred or has such special significance, the Minister shall obtain the decision of the Ngwenyama in writing, and such decision shall be final and binding on all persons concerned.

## Part II – The Commission

### 3. Establishment of Commission

- (1) There is established a body to be known as the Swaziland National Trust Commission which shall be a body corporate, capable of suing and being sued in its own name, of acquiring and alienating movable and immovable property and, subject to the provisions of this Act, generally of performing all such acts as bodies corporate may by law do.
- (2) Subject to the provisions of Part VI of this Act, the Commission shall not without the prior approval of the Minister purchase, hire, sell, let, exchange, or otherwise alienate, hypothecate or encumber immovable property or invest, lend or borrow moneys.

### 4. Constitution of the Commission

- (1) The Commission shall consist of a chairman and six members appointed by the Minister by notice published in the *Gazette*, together with such other members as may be elected by the Commission under subsection (2).
- (2) The Commission may elect not more than four persons possessing such expert knowledge or experience as may be required by it in the discharge of its functions.  
*[Amended K.O-I-C. 22/1973]*
- (3) The Commission shall elect a deputy chairman who shall preside if the chairman is absent.
- (4) The period of office of a member of the Commission shall be—
  - (a) in the case of a member appointed under subsection (1), three years; and
  - (b) in the case of a member elected under subsection (2), a period not in excess of one year; but a member shall be eligible to be re-appointed or re-elected.
- (5) A member of the Commission shall vacate his office if he—
  - (a) gives the Minister written notice of his resignation;
  - (b) has been absent from three consecutive meetings of the Commission without the permission of the chairman;
  - (c) is declared by a competent court to be of unsound mind;
  - (d) is convicted of an offence and sentenced to a term of imprisonment without the option of a fine;
  - (e) is declared insolvent by the High Court and has not been rehabilitated; or
  - (f) is employed by the Commission.
- (6) When a vacancy among appointed members of the Commission occurs, the Minister shall appoint a person to fill the vacancy for the unexpired portion of the period for which such member had been appointed.
- (7) The chairman (or deputy chairman) and four members of the Commission shall constitute a quorum and a decision of the majority of members present at the meeting shall be deemed to be the decision of the Commission.
- (8) The chairman shall have a casting vote as well as a deliberative vote.
- (9) The Commission shall meet at least twice a year and the chairman shall give or cause members of the Commission to be given reasonable notice in writing of a meeting.

## 5. Members of the Commission not to be remunerated

No remuneration shall be paid to the members of the Commission, but each member may draw from the funds of the Commission his reasonable expenses for subsistence and travelling while engaged in the business of the Commission at the rates authorized in terms of any Regulation made under [section 43](#).

## 6. Functions of the Commission

- (1) Subject to the provisions of this Act or any other law the Commission is charged with the general supervision and control of the Swaziland National Centre and other declared institutions, national parks, nature reserves, monuments, relics and antiques.

*[Amended K.O-I-C. 22/1973]*

- (2) The Commission may establish committees to assist it in the exercise of its functions and the performance of its duties, and may, in addition, appoint such persons as it may deem fit to be members of such a committee.

## 7. Officers and employees

- (1) The Commission shall appoint a chief executive officer who shall—
  - (a) hold office for such period and subject to such conditions as the Commission may decide; and
  - (b) subject to the directions of the Commission be charged with the management of the business of the Commission and its administration and organisation and with control of the staff of the Commission.
- (2) The Commission may, subject to the provisions of [section 11](#), appoint such other persons to the staff of the Commission as may from time to time be required for the carrying out of the objects of this Act and may in its discretion dismiss any officer or employee from its service.

## 8. Limitation of liability and actions

- (1) No action shall lie against the Commission for the recovery of any damage caused by any animal inside a declared institution, park, reserve or monument unless such damage is shown to have been caused by the reckless or wilful misconduct of a person employed by the Commission and acting in the course of such employment.

*[Amended K.O-I-C. 22/1973]*

- (2) No action shall lie against the Commission or any officer or employee of the Commission in respect of anything done under this Act unless written notice stating the cause of action is served on the Commission within thirty days after the cause of action arises, and unless the action is commenced within six months after the cause of action arises.

## Part III – Swaziland National Centre and declared institutions

### 9. Establishment of Swaziland National Centre

There is hereby established an institution to be known as the Swaziland National Centre, the assets and liabilities of which shall vest in the Commission.



## 10. Proclamation of declared institutions

The Minister may in consultation with the Prime Minister by notice in the *Gazette* proclaim an institution to be a declared institution, whereupon all the assets and liabilities of that institution shall vest in the Commission, unless expressly otherwise provided for in that notice.

## 11. The curator and his functions

- (1) The Commission shall appoint a curator to be in charge of a declared institution.
- (2) The functions of the curator shall be—
  - (a) to receive, hold and preserve all specimens, collections, or other movable property of whatever kind placed under the care of, or loaned to, or belonging to, the declared institution;
  - (b) to maintain and preserve all buildings, land, and other immovable property in the care of, loaned to, or belonging to, the declared institution;
  - (c) to undertake such administrative functions in connection with the declared institution as may be necessary, including the preparation of annual estimates of revenue and expenditure and the keeping of books of account;
  - (d) to keep proper records of the property of the declared institution and to submit to the Commission any returns or information requested by it; and
  - (e) generally to carry out the purposes and objects of the declared institution.
- (3) A curator may, subject to any other law and subject to the approval of the Commission, determine the hours during which and the conditions and restrictions under which the public may visit the declared institution.
- (4) A curator shall once a year submit to the Commission a written report of the activities of the declared institution, including a financial statement outlining his use of the funds put at his disposal regardless of their source.

## Part IV – National parks and nature reserves

*[Replaced in its entirety by K.O-I-C. 22/1973]*

## 12. Establishment and areas of parks and reserves

- (1) Upon the recommendation of the Commission, the Minister may after consultation with the Prime Minister and subject to this Act, by notice in the *Gazette* proclaim—
  - (a) as a national park, any area of land which does not include private land, or proclaim any such area to be part of an existing park;
  - (b) as a nature reserve, any area of land which may include private land, or proclaim any area of land to be part of an existing reserve:  
Provided that the Commission shall—
    - (i) at least one month before making any such recommendation in respect of private land, notify the owner thereof in writing that it proposes to make a recommendation; and
    - (ii) attempt to conclude an agreement with the owner prescribing the terms and conditions under which the owner would control, manage and maintain his land within the reserve for the objects described in [section 15](#); and

- (iii) in making its recommendation, submit proof to the Minister that the owner has received the required notice, and transmit to him any agreement that the Commission may have concluded with the owner or failing such agreement any objection which may have been lodged by the owner; or
  - (iv) in the event that the owner concerned cannot be traced after diligent search, in making its recommendation submit proof that the notice has been published in the *Gazette* and in a newspaper circulating in Swaziland.
- (2) Notwithstanding subsection (1), the Minister shall not proclaim any Swazi Nation Land in terms of this section without first having obtained the written permission of the Ngwenyama who may therein impose such restrictions or limitations as he may deem fit.
  - (3) Upon the recommendation of the Commission, the Minister may after consultation with the Prime Minister by notice in the *Gazette* exclude any land from an area proclaimed to be a park or reserve in terms of subsection (1) or cancel a notice issued in terms of that subsection.

### 13. Noting of proclamation of park or reserve in Deeds Office

- (1) When the Minister proposes to proclaim or has proclaimed a defined area to be a park or reserve or to increase or reduce the area of a park or reserve under [section 12](#), he may cause beacons to be erected on the corners of the area and cause that area to be surveyed and a diagram thereof to be framed.
- (2) When the Minister has proclaimed a defined area to be a park or reserve or has increased or reduced the area of a park or reserve under [section 12](#), he shall furnish the Registrar of Deeds with a copy of the notice in the *Gazette* containing the proclamation, extension or reduction, and with a copy of any diagram of that area which may have been framed.
- (3) The Registrar of Deeds shall endorse a reference to the said proclamation, extension or reduction, and to any such diagram upon the title deed of the land in question filed in his office and in the appropriate registers, and upon the owner's title deed as soon as it is lodged in his office for any reason.

### 14. Acquisition of property

If the Minister proposes to proclaim a park or reserve under [section 12](#), or if a reserve has already been so proclaimed, the Minister may acquire by purchase or otherwise or, failing agreement with the owner, by expropriation any property necessary for the purposes of proclaiming the park or reserve or of furthering the objects of the reserve.

### 15. Objects of parks and reserves

The objects of the declaration of a park or reserve are—

- (a) to promote and conserve indigenous animal and plant life and to eliminate non-indigenous animal and plant life within the area of a park or reserve;
- (b) to collect together and restore to the park or reserve a representative selection of the animals and plants which are indigenous or are reasonably considered to have been indigenous to the area;
- (c) to protect and preserve or to restore objects of geological, archaeological, historical, ethnological and other scientific interest in the park or reserve;
- (d) to promote and protect the natural ecology and environment of the park or reserve;
- (e) to provide facilities for scientific study and education;
- (f) to promote public appreciation of the social, economic and moral value of nature conservation;

- (g) without conflicting with the foregoing objects, to provide enjoyment to visitors to the park or reserve.

## 16. Functions and powers of the Commission in respect of parks and reserves

- (1) Subject to [section 17](#) and to any agreement concluded in terms of [section 12\(1\)\(b\)\(ii\)](#), the Commission shall control, manage and maintain parks and reserves for the objects described in [section 15](#).
- (2) Subject to [section 3\(2\)](#) and to any agreement concluded in terms of [section 12\(1\)\(b\)\(ii\)](#), the Commission may within a park or reserve—
  - (a) construct such bridges, buildings, fences and dams, and carry out such other works as it may consider necessary for the control, management or maintenance of the park or reserve;
  - (b) take such steps as will ensure the preservation of the park or reserve and the indigenous animals and plants therein in a natural state;
  - (c) set aside areas as breeding places for animals or as nurseries for trees, shrubs, flowers and other plants;
  - (d) having regard to the objects described in [section 15](#), provide accommodation, meals, refreshments and facilities in connection therewith for visitors to the park or reserve, and carry on any business or trade or supply any other service for the convenience of visitors to the park or reserve;
  - (e) establish, erect, equip and maintain any building, structure, depot or premises required in connection with any matter referred to in paragraph (d), or otherwise permit the use or occupation of any site required for such purpose;
  - (f) make such charges in connection with any such matter as it may determine.
- (3) Subject to any agreement concluded in terms of [section 12\(1\)\(b\)\(ii\)](#), the Commission may—
  - (a) on the recommendation of the director sell, exchange or donate specimens of the animals and plants of a park or reserve, and by purchase, exchange or otherwise acquire any animal or plant which the Commission may consider desirable to introduce into a park or reserve;
  - (b) grant exemption or partial exemption from payment of any or all of the charges determined under subsection (2) or the fees payable in terms of any Regulation made under [section 43](#) to members of the Commission and to any other person approved generally or specially by the Commission.
- (4) The Commission may investigate the question whether or not it would be desirable to have any area proclaimed a park or reserve or to have any land included in a park or reserve and may, subject to [section 12\(1\)](#), make recommendations to the Minister accordingly.
- (5) If any area of land in respect of which an investigation has been carried out in terms of subsection (4) is thereafter proclaimed to be a park or reserve or included in any park or reserve, anything done by the Commission with the approval of the Minister in connection with the control, management or maintenance of such area as if it were a park or reserve before such proclamation shall be deemed to have been done after it.

## 17. Delegation of powers

Upon the approval of the Minister the Commission may in respect of a particular park or reserve delegate to any person its powers in respect of sections [16\(2\)](#) and (3), [19](#) and [20\(2\)](#):

Provided that no such delegation shall relieve the Commission of its responsibility to ensure that each park and reserve is controlled, managed and maintained for the objects described in [section 15](#).

## 18. The Director of national parks and his functions

The Commission shall appoint a director of national parks whose functions shall be to carry out such duties and to exercise such powers as may be assigned to him by the Commission in respect of the national park or nature reserve.

## 19. Restriction on entry and fishing

No person other than a park warden or park official in the execution of his duty shall enter or be found in a park or reserve, or fish or attempt to catch fish by any means in a park or reserve, without being in possession of a written permit issued by the Commission or the park warden responsible for the administration of the park or reserve or by a park official authorised by such park warden to issue such a permit, and then only subject to such conditions and may be endorsed on the permit:

Provided that this section shall not apply to any police, customs or excise officer entering a park or reserve or being found therein in the execution of his official duty.

## 20. Prohibition of certain acts in parks and reserves

- (1) Subject to subsection (2), no person other than a park warden or park official in the execution of his official duty shall—
  - (a) reside, camp or picnic in a park or reserve other than in places provided for such purposes;
  - (b) hunt or otherwise wilfully or negligently kill or injure any animal or take, damage or destroy any egg or nest of any bird, fish or reptile in a park or reserve;
  - (c) wilfully or negligently cause a veld fire or cut, damage or destroy any tree, plant or other vegetation in a park or reserve or pick any flower or remove seed from any such tree or plant;
  - (d) introduce into or be in possession of any weapon, explosive, trap or poison in a park or reserve;
  - (e) introduce any domestic animal or allow any domestic animal to stray into a park or reserve:  
Provided that domestic animals may be driven or led under proper control along any route through a park or reserve that the Commission may designate for the purpose;
  - (f) introduce into a park or reserve any animal or plant of a species that is not indigenous to the area;
  - (g) cultivate any land in a park or reserve;
  - (h) remove from a park or reserve any seed, plant or animal, whether alive or dead, or any part of a plant or animal, or any fossil, stone, mineral or other natural object whatsoever, or any object of aesthetic, historical, archaeological, scientific, sacred or religious value or interest;
  - (i) dig or excavate any hole, pit or trench or otherwise interfere with the natural configuration of the land in a park or reserve, or alter the natural flow of water in a park or reserve;
  - (j) pollute any water in or flowing into a park or reserve, or use any insecticide, herbicide or other chemical or poison in such a way as to affect animal or plant life in a park or reserve;
  - (k) feed or wilfully molest or disturb any animal in a park or reserve;
  - (l) cut, carve, write on or otherwise deface any rock, building, notice board or other object, whether natural or otherwise, in a park or reserve, or damage any fence or wall inside or on the boundary of a park or reserve;
  - (m) discard any paper, wrapper, tin, bottle or any other litter in a park or reserve other than in receptacles provided for the purpose;

- (n) fly any type of aircraft over a park or reserve at an altitude of less than 500 metres above ground level;
  - (o) fail to comply with the lawful order of a park warden or park official while in a park or reserve.
- (2) Notwithstanding subsection (1), the Commission may, for scientific purposes or the improvement of the park or reserve or for other good and sufficient reason, authorise any person to do any act prohibited by this section.
- (3) The Minister may by notice in the *Gazette* declare any road in a park or reserve to be a public road for the purposes of the Road Traffic Act, [No. 6 of 1965](#).

## 21. Rights of owners and occupiers of land in a reserve

- (1) Subject to subsection (2) and notwithstanding [section 20](#), the owner of any private land falling within the boundary of a reserve, or, with such owner's consent, the occupier of such land, shall be entitled to continue in the use and enjoyment thereof.
- (2) The owner or occupier of such land, as the case may be, shall not without the prior consent of the Commission—
- (a) sell or lease such land or permit any portion of such land to be occupied without first having given a prior option to the Commission to purchase, lease or otherwise occupy such land on the same terms;
  - (b) construct any building, roads, dams or bridges;
  - (c) cause or allow any excavation or other material alteration of the natural configuration of such land to be made;
  - (d) hunt or permit the hunting of any animal on such land;
  - (e) cut, damage or destroy or permit the cutting, damaging or destroying on such land of any tree of a species that is indigenous to the area, or plant on such land any tree of a species that is not indigenous to the area;
  - (f) wilfully or negligently cause a veld fire on such land.
- (3) If any private land falls within a nature reserve and is entirely surrounded by land which is within the reserve and is not private land, the Commission shall afford the owner of such land free access from outside the reserve to such land by a specified route or routes along which the prohibitions of [sections 19](#) and [20\(1\)\(d\)](#), (f) and (h) shall not apply.
- (4) For the purposes of [sections 19](#) and [20\(1\)\(d\)](#), (e), (f), (h) and (j) the boundary within a nature reserve between private land and land which is not private land shall be regarded as the external boundary of the reserve.
- (5) The owner of any riparian land in relation to a public stream, the bed or any part of the bed of which is included in a park or reserve shall have all such rights to use water from such stream as are permitted to him under the Water Act, [No. 25 of 1967](#), and shall for the purpose of such use be entitled to construct, use and maintain any work which he would have been entitled to construct, use and maintain if this Act had not been passed:

Provided that, if he constructs any such work which might facilitate the entry into or exit from the park or reserve of persons or animals (other than aquatic or amphibious animals), he shall take steps to prevent permanently such entry or exit; and

Provided further, that if such owner fails to take such steps, the Commission may itself take such steps or cause them to be taken and recover the cost thereof from him.

- (6) The expressions “riparian land” and “public stream” in subsection (5) have the respective meanings assigned thereto in section 2 of the Water Act, [No. 25 of 1967](#).

## 22. Penalties

- (1) Any person contravening [section 20\(1\)\(b\)](#) or (c) with reference to a veld fire shall be guilty of an offence and liable on conviction to a fine of one thousand emalangeni or imprisonment for three years, or both.
- (2) Subject to subsection (1), any person who contravenes this Part, including any Regulation made for this Part under [section 43](#), or who commits a breach of a condition of any permit granted under this Part, or who obstructs any member of the Commission, the director or any officer or employee of the Commission in the execution of his functions or duties under this Part, shall be guilty of an offence and liable on conviction to a fine of two hundred emalangeni or imprisonment for six months or both or in respect of a second or subsequent conviction under this section to a fine of four hundred emalangeni or to imprisonment for twelve months, or both.
- (3) Any weapon, explosive, trap or poison used in connection with a wilful contravention of [section 20](#) shall, in addition to any other punishment which may be imposed under this section, be declared forfeited to the Government.
- (4) Any vehicle, aircraft, vessel, animal, including a domestic animal, material or article used in connection with a wilful contravention of [section 20](#) may be declared forfeited to the Government unless it is proved that the person convicted is not the owner of such vehicle, aircraft, vessel, animal, material or article and that the owner thereof could not have prevented its unlawful use by the person convicted.

## 23. Evidence

- (1) Any person found within a park or reserve while in possession of any weapon, explosive, trap or poison shall be presumed to be hunting within the park or reserve unless the contrary is proved.
- (2) Any person found within a park or reserve and in possession of the carcass or any part of a freshly killed animal shall be presumed to have wilfully killed such animal within the park or reserve unless the contrary is proved.
- (3) Whenever, in any prosecution under this Part, it is alleged in the charge that an offence has been committed in connection with or in respect of any animal or plant of the species stated in the charge, it shall be presumed that such animal or plant was of that species unless the contrary is proved.
- (4) If in any prosecution it is alleged in the charge that an act which constitutes, an offence under this Part has been committed within the boundaries of a park or reserve that act shall be presumed to have been committed within that park or reserve unless the contrary is proved.
- (5) In any prosecution under this Part any record, book or document kept by a park warden or park official in the course of his duties shall on its production by any park warden or park official be *prima facie* proof of the facts recorded therein:

Provided that the court in which any such record, book or document is adduced in evidence, may in its discretion cause the person who made the entries therein to be summoned to give oral evidence in the proceedings in question.

## 24. Powers of park wardens and park officials

- (1) Any park warden or park official acting on the orders of a park warden may, within a park or reserve or within five miles from the boundary thereof—
  - (a) require any person whom he has reasonable grounds to suspect has committed an offence under this Part to produce for inspection any animal, including a domestic animal, or any

plant, weapon, trap, poison or other material article which may afford evidence of the commission or attempted commission of an offence under this Part, or any permit or other document required to be in the possession of such person under this Part;

- (b) search without a warrant any premises, place, vehicle, aircraft, vessel, transport animal, tent, baggage or receptacle of whatever nature if he has reasonable grounds for suspecting that there is at or in such premises, place, vehicle, aircraft, vessel, transport animal, tent, baggage or receptacle any animal, including a domestic animal, or any plant, weapon, trap, poison or other material or article which may afford evidence of the commission or attempted commission of an offence under this Part, and may seize any such animal, plant, weapon, trap, poison, material or article found as a result of such search;
  - (c) arrest without a warrant any person who is on reasonable grounds suspected of having committed an offence under this Part.
- (2) Any park warden or park official acting on the orders of a park warden may within the boundaries of a park or reserve—
- (a) require any person who is behaving in a suspicious or unbecoming manner to leave the park or reserve;
  - (b) destroy any dog or domestic cat found within a park or reserve if unaccompanied by its owner or other person having control over it or, if accompanied by such person in the course of contravening [section 20\(1\)\(b\)](#).

#### **24bis.Appointment of honorary park wardens and officials**

- (1) The Commission may by notice in the *Gazette* appoint any person to be an honorary park warden or honorary park official for such period and on such conditions as the Commission may think fit, and may terminate such appointment at any time.
- (2) Save as may be otherwise prescribed, and subject to the conditions of his appointment, an honorary park warden or honorary park official shall have all the powers conferred by this Act on a park warden and park official respectively.

### **Part V – National monuments, relics and antiques**

#### **25. Powers and duties of the Commission in regard to national monuments, relics and antiques**

- (1) The Commission may—
  - (a) make recommendation to the Minister that it is in the national interest that he proclaim—
    - (i) as a national monument, any area of land having a distinctive or beautiful scenery or geological formation, or any area of land containing a rare or distinctive or a beautiful flora or fauna, or any area of land containing objects of archaeological, historical, or scientific interest or value, or any waterfall, cave, grotto, avenue of trees, old building, or any other place or object (whether natural or constructed by man) of aesthetic, historical, archaeological, scientific, sacred, or religious value or interest;
    - (ii) as a relic, any fossil of any kind, any drawing or painting on stone or petroglyph known or commonly believed to have been executed by Bushmen or other aboriginal inhabitants of Southern Africa, or by any people who inhabited or visited Southern Africa in ancient days, and any implement or ornament known or commonly believed to have been used by them and any anthropological or archaeological contents of the graves, caves, rock shelters, middens, shell mounds, or other sites used by them;
    - (iii) as an antique, any movable object (not being a monument or relic) of aesthetic, historical, archaeological or scientific value or interest, the whole or more valuable

portion whereof has for more than thirty years been in any part of Southern Africa, or which was made therein more than fifty years before the publication of such notice;

- (b) make a list of all areas and objects whose proclamation under [section 16](#) it considers desirable;
- (c) take steps to ascertain the owners of any place or object;
- (d) purchase or otherwise acquire any such object, or by agreement with the Government or a public body or with a private person having the ownership or control of any such object, take such steps as may be practicable to preserve it;
- (e) take steps for the erection of tablets in suitable places giving information in siSwazi and in English about the historical events which occurred in such places;
- (f) assume control over any such object requested by the person having the ownership or control thereof and as trustee for the Government accept any such object which the owner desires to donate or has bequeathed to the Government;
- (g) preserve, repair, restore or insure any monument, relic or antique under its control;
- (h) lend any such relic or antique to any institution;
- (j) have access through any of its members at all reasonable times to any monument, relic or antique;

*[Please note: numbering as in original.]*

- (k) publish or cause to be published information relating directly or indirectly to a monument, relic or antique.
- (l) appoint caretakers to be responsible for the protection and maintenance of monuments, relics and antiques.

*[Added K.O-I-C. 22/1973]*

- (m) extend any provision of [section 19](#) or [20](#) to any monument or relic by notice published in the *Gazette*.

*[Added K.O-I-C. 22/1973]*

(2) The Commission shall—

- (a) when required by the Minister investigate and report upon matters relating to an area, place or object proclaimed under [section 26](#) or upon the desirability of so proclaiming an area, place or object;
- (b) make a register of all monuments, relics and antiques.

*[Amended K.O-I-C. 22/1973]*

## 26. Proclamation of monuments

- (1) Upon the recommendation of the Commission, the Minister may after consultation with the Prime Minister by notice in the *Gazette* proclaim an area or object to be a national monument, relic or antique, as the case may be, or increase an area proclaimed to be a monument or relic:

Provided that the proviso to [section 12\(1\)](#) shall *mutatis mutandis* apply to such proclamation.

- (2) The Minister may, after consultation with the Commission, or on its recommendation, by notice in the *Gazette* reduce an area proclaimed to be a monument or relic in terms of subsection (1) or cancel a notice issued in terms of that subsection.



## 27. Acquisition of land and rights for the purposes of a monument, relic or antique

Where a monument, relic or antique has been proclaimed under [section 26](#), the Minister may, by purchase or otherwise and, failing agreement with the owner, shall where necessary acquire by expropriation—

- (a) any area of land proclaimed as a national monument or relic in terms of [section 26](#) necessary for the purposes of that monument or relic:

*[Amended K.O-I-C. 22/1973]*

Provided that upon the issue of a certificate under the hand of the Ngwenyama in terms of [section 2\(2\)](#), the land referred to in such certificate shall be acquired in the manner provided for in this paragraph and shall be transferred to the Ngwenyama in trust for the Swazi Nation.

- (b) rights to construct and maintain public access roads or footpaths over any area of land to any monument or relic;
- (c) rights to construct fences, walls or gates upon such land or upon, across or beside such roads or footpaths;
- (d) rights to undertake and carry out such other activity as may be necessary for the preservation, restoration or repair of any monument or relic.

## 28. Noting of proclamation of monument or relic in Deeds Office

- (1) When the Minister proposes to proclaim or has proclaimed a defined area to be a monument or relic in terms of [section 26](#) or when he proposes to increase or reduce or has increased or reduced any such area in terms of [section 26](#), he may cause beacons to be erected on the corners of that area and cause that area to be surveyed and a diagram thereof to be framed.
- (2) When the Minister proposes to proclaim or has proclaimed a place or object, other than a defined area, as a monument, relic or antique in terms of [section 26](#), he may cause the location of that place or object in relation to the beacons or boundaries of the land upon which it is situated, to be determined by a survey and to be indicated upon the diagram of that land filed in the Deeds Office.
- (3) When the Minister has proclaimed an area, place or object to be a monument, relic or antique under [section 26](#), or when he has increased or reduced any such area under that section, he shall furnish the Registrar of Deeds with a copy of the notice in the *Gazette* containing the proclamation, extension or reduction, and with a copy of any diagram which may have been made under that section in connection with the monument or relic.
- (4) The Registrar of Deeds shall endorse a reference to the said proclamation, extension or reduction, and to any such diagram upon the title deed of the land in question filed in his office and in the appropriate registers, and upon the owner's title deed as soon as it is lodged in his office for any reason.

## 29. Protection of monuments, relics, antiques and other objects

- (1) Whenever the owner of an area or object proclaimed under [section 12](#) or [26](#) alienates, pledges or lets it, he shall forthwith in writing inform the Commission of the names and address of the alienator, pledgee or lessee.
- (2) No person shall destroy, damage, excavate, alter, remove from its original site or export any monument, relic or antique, or any meteorite or fossil or any drawing or painting or stone or petroglyph known or commonly believed to have been executed by Bushmen or other aboriginal inhabitants of Southern Africa, or any implement or ornament known or commonly believed to have been used by them, or any anthropological or archaeological contents of the graves, caves, rock shelters, middens, shell mounds or other sites used by them or any other archaeological or paleontological material or object, except under the authority of and in accordance with a permit granted under this section.

- (3) On application by any person in the prescribed manner the Commission may grant, subject to any directions of the Minister, such person a permit to destroy, damage, excavate, alter, remove its original site or export any monument, relic, antique, or other object referred to in subsection (2), specified in the permit, at such time or within such period and subject to such conditions as may be imposed in such permit:

Provided that the Commission shall not give any such consent, and the Minister shall not direct the Commission to give such consent, including a direction in an appeal under subsection (4), with respect to any monument, relic, antique or other object on Swazi nation land without the prior consent in writing of the Ngwenyama.

- (4) Whenever the Commission has refused an application made under this section, or has granted such application subject to any conditions, the applicant may appeal against such decision to the Minister who may confirm it or direct the Commission to grant the application subject to such conditions as he deems fit.
- (5) Whenever any person has been convicted of damaging or altering anything in contravention of subsection (2), the Commission may—
- (a) by notice in writing served upon such person by post or by delivery to him personally, direct him to effect such specified repairs or alterations to it within such period as may be specified therein;
  - (b) upon failure of such person to comply with such notice, effect or cause to be effected such repairs or alterations and recover the cost thereof from such person.

### 30. Powers of entry upon land

Subject to any other law, any person authorized in writing by the Minister or the Commission may at all reasonable times enter upon any land or premises for the purpose of inspecting property to which the prohibitions of [section 29](#) apply or in respect of which the Commission is investigating the desirability of proclaiming a national monument, relic or antique, or the desirability of including it in an area of land so proclaimed as a national monument, or for the purposes of performing in relation to such property any act authorized under sections [25](#) and [29](#).

### 31. Commission may assume control of certain monuments

- (1) When the Minister has proclaimed an area on Government land to be a monument or relic and such area is under the control of a local authority or is on land which the local authority has acquired from Government otherwise than by purchase or exchange, and the Commission is of the opinion that the local authority concerned does not properly administer, preserve or safeguard the monument or relic, the Commission may recommend to the local authority that it take steps to administer the monument or relic in a manner indicated by the Commission.
- (2) If after the expiry of three months from the receipt by the local authority of the Commission's recommendations it has failed to give effect thereto, the Commission may notify the local authority that it proposes to assume control of the monument.
- (3) Within a period of one month from the receipt by the local authority of the said notification the local authority may appeal to the minister who, after investigation, may disallow the appeal or allow it wholly or in part on such conditions as he may think fit.
- (4) If the local authority does not appeal, the Commission may, after the expiry of the said period of one month or, if the Minister disallows an appeal, forthwith assume control over the monument or relic and notify the local authority in writing of that fact, and the Commission shall thereupon publish a notice in the *Gazette* and in a newspaper circulating in the area wherein the monument or relic is situate, that it has assumed control over the monument or relic.

- (5) When the Commission has assumed control over a monument or relic, all rights of the local authority with reference to that monument or relic shall, during the period of the Commission's control, vest in the Commission.
- (6) The Commission may relinquish its control over the monument or relic under this section and shall notify its relinquishment in the *Gazette*.

### **32. Minister may prohibit removal or export of monument, relic or antique**

- (1) The Minister may by notice in the *Gazette* prohibit the removal or the export, without the consent in writing of the Commission, of any object or group or collection of objects which is, in the opinion of the Minister, capable of being proclaimed under [section 26](#).
- (2) The owner of any such object or group or collection of objects or of any object which forms part of such group or collection who is affected by such prohibition may submit a written objection to the Commission against such prohibition.
- (3) The Commission shall transmit the objection to the Minister who may thereupon cancel, modify or confirm the prohibition.

### **32bis Powers of park wardens and park officials in respect of monuments and relics**

Subject to any restrictions or limitations imposed by the Ngwenyama in respect of a monument or relic in terms of the proviso to [section 26](#)(1), any park warden or park official acting on the orders of a park warden shall, on the premises of a monument or relic and within five miles from the boundary thereof, have the same powers as are conferred on them by [section 24](#) for the purpose of arresting any person who is on reasonable grounds suspected of having committed an offence under this Part or for the purpose of obtaining any evidence in connection with such an offence.

*[Added K.O-I-C. 22/1973]*

### **33. Penalties**

A person who knowingly—

- (a) fails to comply with or contravenes any provision of [section 29](#);
- (b) contravenes any prohibition issued under [section 32](#);
- (c) in an application to the Commission for its consent makes a statement which is false in any material respect or supplies a drawing or photograph which is false in any material respect;
- (d) damages or destroys a tablet erected in terms of [section 25](#)(1)(e);
- (e) destroys, damages or mars a drawing, painting or petroglyph described in [section 25](#)(1)(a)(ii) or any substance near such drawing, painting or petroglyph or, without the consent of the Commission, destroys or damages any part of a cave or rock in or on which there is any such drawing, painting or petroglyph;
- (f) obstructs any member of the Commission or officer or employee of the Commission in the execution of his functions or duties under this Part;
- (g) contravenes in respect of a monument or relic any provision of [section 19](#) or [20](#) that may be extended to such monument or relic by the Commission by notice published in the *Gazette*; or

*[Added K.O-I-C. 22/1973]*

(h) contravenes a Regulation made for this Part under [section 43](#),

shall be guilty of an offence and liable on conviction to a fine of two hundred emalangeni or in default of payment thereof to imprisonment for six months, or both:

Provided that the Minister may by notice in the *Gazette* increase the penalties which may be imposed on conviction of any of the offences described in paragraphs (d), (e) and (g), in respect of specific monuments and relics, but such increased penalties shall not exceed one thousand emalangeni or in default of payment thereof to imprisonment for three years.

[Amended K.O-I-C. 22/1973]

## Part VI – Financial provisions

### 34. Financial year

The financial year of the Commission, the Swaziland National Centre, any other declared institution and any park shall be the period of twelve months ending on the 31st March in each calendar year.

### 35. Revenues of the Commission

The revenues of the Commission shall consist of such sums as—

- (a) may from time to time be placed at its disposal by Parliament;
- (b) may with the approval of Parliament be raised for its purposes by loan, in or outside Swaziland, either by Government or the Commission;
- (c) with the approval of the Minister for Finance, it may raise by means of bank overdraft or such other means as may be determined in accordance with such provisions as may be prescribed;
- (d) may from time to time be placed at the disposal of the Commission by way of grant or otherwise;
- (e) may accrue to it by virtue of its operations in accordance with the provisions of this Act.

### 36. Application of funds of the Commission

- (1) The Commission may, subject to this or any other law, expend moneys in the proper exercise of its duties and powers and in the proper performance of matters necessarily incidental thereto or arising therefrom and for the purpose of meeting its lawful debts and obligations.
- (2) Every payment from its funds shall be made by the chief executive officer of the Commission at the direction of the Commission, or of a finance sub-committee appointed under [section 6\(2\)](#).
- (3) No expenditure shall be incurred by the Commission unless it can be properly charged to an item in the annual estimates or supplementary estimates approved by the Minister in terms of [section 37](#).

### 37. Annual estimates

- (1) The Commission shall, on a date which the Minister may determine, failing which not later than two months before the commencement of the financial year, submit to the Minister detailed estimates of its revenues and expenditures for the ensuing financial year in such form as he may approve.
- (2) Subject to subsection (3) the Minister may—
  - (a) approve such estimates without amendment;
  - (b) disallow or amend any item or any part of any item therein which, in his opinion, is unlawful, excessive or unnecessary; or

- (c) disapprove such estimates.
- (3) The Minister shall prior to disallowing, amending or disapproving any such estimates give the Commission an opportunity of making representations to him thereon.
- (4) If any additional financial provisions required during any financial year, supplementary estimates shall be submitted by the Commission and the provisions relating to the annual estimates shall *mutatis mutandis* apply.

### 38. Investment of funds

Any funds of the Commission which are not required for immediate use may be—

- (a) placed on deposit with any commercial bank or the Swaziland Credit and Savings Bank;
- (b) with the consent of the Minister for Finance, invested with the Government, any statutory body or a building society registered in Swaziland, or in such other manner as the Minister for Finance may approve.

### 39. Annual report

The Commission shall, within three months after the end of each financial year, furnish the Minister with a report on its operations, including the operations of all declared institutions and parks.

### 40. Accounts

The Commission shall keep proper books and accounts of all its financial transactions, which shall be audited annually by the Director of Audit, and the balance sheet, together with a revenue and expenditure account, when so audited, shall be published in the *Gazette*, and laid on the table in both houses of Parliament.

### 41. Exemptions from duties, taxes and fees

Notwithstanding anything to the contrary in any other law, no duty, tax or fee shall be payable by the Commission, a declared institution or a park, reserve or monuments to the Government in respect of anything done or any transaction done under this Act, or in respect of any document required in connection with anything so done or any such transactions where the duty, tax or fee would otherwise be payable by the Commission, declared institution, or park.

[Amended K.O-I-C. 22/1973]

## Part VII – General

### 42. Acquisition of property

The provisions of the Acquisition of Property Act, [No. 10 of 1961](#), shall *mutatis mutandis* apply to any expropriation of property under sections [12](#), [14](#), [16](#) and [27](#) or under any other provision of this Act.

[Amended K.O-I-C. 22/1973]

### 43. Regulations

After consultation with the Commission, the Minister may make Regulations, not inconsistent with this Act—

- (a) as to the conduct of the business of the Commission;
- (b) in consultation with the Minister for Finance, as to the tariff at which travelling and subsistence expenses are to be paid to a member of the Commission;

- (c) as to the duties, remuneration, leave and other conditions of service of officers and employees of the Commission;
- (d) as to the investigation of charges of misconduct or inefficiency against any person employed by the Commission, and the punishment to be imposed on or other steps to be taken against such person against whom such a charge has been established;
- (e) as to the control, management, utilization and disposal of all moneys received by the Commission;
- (f) in relation to declared institutions, as to the safety and good custody and preservation of the property of any such institution;
- (g) in relation to national parks, nature reserves, national monuments, relics and antiques, as to the protection, preservation, restoration and maintenance of all such places and objects proclaimed under this Act, including the imposition of fees for admission to such places; and
- (h) generally, as to all matters for which he deems it necessary or expedient to make Regulations in order to carry into effect the principles and purposes hereof.

*[Added K.O-I-C. 22/1973]*

#### **43bis. Non-application of certain laws to parks, reserves, monuments and relics**

The provisions of the Wild Birds Protection Act, [No. 45 of 1914](#), the Protection of Freshwater Fish Act, [No. 75 of 1937](#), and Game Control Act, [No. 37 of 1947](#), the Flora Protection Act, [No. 45 of 1952](#), the Game Act, [No. 51 of 1953](#) and the Grass Fires Act, [No. 44 of 1955](#) shall not apply within the boundaries of any park, reserve, monument or relic proclaimed under this Act.

*[Added K.O-I-C. 22/1973]*

#### **44. Repeal and saving**

The Natural and Historical Monuments Proclamation (Cap. 217) is hereby repealed, but any monument, relic or antique proclaimed under Cap. 217 shall be deemed to have been proclaimed under [section 26](#) of this Act.