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Swazi Administration Order, 1998

Act 6 of 1998

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Swazi Administration Order, 1998

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Act 6 of 1998

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An Order-in-Council to provide for the incorporation of the law governing appointment, removal and functions of Chiefs and Tindvuna into the law relating to the Administration of Swazi Affairs.

ENACTED by the King in Collaboration with the Council.

1. Short title and commencement

This Order may be cited as the Swazi Administration Order, 1998, and shall come into force on such date as the Minister may by notice in the *Gazette*, appoint.

2. Application

Unless the context indicates otherwise, this Order shall apply to every person whether a Swazi or not, ordinarily resident on land situated in a Swazi area.

3. Interpretation

In this Order, unless the context otherwise requires—

“**Bandlancane**” means the Inner Council;

“**Chief**” means a person appointed in terms of [section 7](#);

“**chiefdom**” means the area under the control of a Chief;

“**Competent authority**” means a person appointed by the *Ngwenyama* in *Libandla* for the purpose of administration of a Swazi area in terms of [section 7](#) and includes a Chief appointed under this Order or any person holding such office;

“**Customary law**” means the indigenous law or custom of Swaziland;

“**Indvuna**” means a person recognised as such in terms of [section 36](#);

“**kumemeta**” means the act by a competent authority of issuing a royal summons in terms of customary law,

(i) on behalf of a Chief calling the members of that chiefdom; or

(ii) on behalf of the *Ngwenyama* calling the nation or a part of the nation;

for a meeting or for the performance of a duty at a specific place or time;

“**Ngwenyama**” means the *Ngwenyama* in *Libandla*;

“**Libandla**” means the General Council comprising of such members of the Swazi nation as the *Ngwenyama* may consult;

“**Lusendvo**” means an inner council of a family as understood under customary law;

“**Minister**” means the Minister responsible for Justice;

“**Swazi area**” means an area of land as defined in the Definition of Swazi Area’s Act, 1916 or any other area of land held by the *Ngwenyama* in trust for the Swazi Nation;

“**Umgijimi**” means a person appointed in terms of [section 36](#);

“**Umphakatsi**” means the Chief’s official residence.

4. Chieftainship

There shall be an office of Chief (in this Order referred to as “Chieftainship”) in such place as the *Ngwenyama* may so designate.

5. Powers of the *Ngwenyama*

The *Ngwenyama* shall exercise the powers conferred upon Him under this Order according to Swazi law and custom and the area of His authority shall extend over the whole of Swaziland.

6. Duty of Swazis to assist the *Ngwenyama* and Chiefs

Every Swazi when required by the *Ngwenyama* or by any Chief having jurisdiction over him shall assist in carrying out the duties imposed by this Order or by any other law or Swazi custom for the time being in force; and every person so required by the *Ngwenyama* or by such Chief shall be empowered to do all that may be reasonably necessary to give effect to any lawful order under this Order.

7. Appointment of Chief

- (1) The *Ngwenyama* shall, after consultation with the *Lusendvo* and in accordance with customary law, appoint a Chief.
- (2) Where there is a vacancy in a chieftainship either by reason of death, deposition or abdication, it shall be the duty of the *Lusendvo* assembled at *Umphakatsi* under the chairmanship of the most acceptable senior member of the *Lusendvo* to designate the rightful successor to the chieftainship according to customary law.
- (3) Notwithstanding subsection (1) the *Ngwenyama* may, in accordance with customary law, appoint any person to be a competent authority for any specified area or areas in Swaziland.
- (4) The *Ngwenyama* may, in accordance with customary law, at any time revoke the appointment of a Chief or competent authority.

8. Appointment of Acting Chief

- (1) Where a person to be appointed as a Chief under [section 7](#) is below the age of eighteen (18), then such person shall not for the time being be appointed as a Chief, and it shall be the duty of the *Lusendvo* so assembled to designate another person to act as a Chief.
- (2) The *Ngwenyama* shall, by notice published in the *Gazette*, appoint the person designated in terms of subsection (1) to be Acting Chief and shall specify the period of such acting appointment.
- (3) An Acting Chief shall, pending the appointment of the rightful Chief and with the approval of *Lusendvo*, exercise and perform the functions of the Chief.

9. Committee to be appointed in case of doubt

- (1) If any question arises as to whether:
 - (a) a person appointed under [section 7](#) is, under customary law, the rightful successor to the chieftainship, or is a fit and proper person to be so appointed;

- (b) a person designated under [section 8](#) is, under customary law, the rightful person to be appointed as acting chief pending the appointment as acting Chief;
 - (c) other matters relating to Chieftainship,
- the *Ngwenyama* may appoint a committee to inquire into the matter.
- (2) On receipt of the report of the Committee appointed in terms of this section, the *Ngwenyama* shall determine the question which has arisen, and make such decision for the purposes of [section 7](#) or [8](#) as he may deem appropriate.

10. Temporary absence or incapacity of Chief

- (1) If a Chief is temporarily unable to exercise the functions of his office, whether by reason of illness, absence or other cause, the powers and duties relating to his office shall be exercised and performed by the *Indvuna* in consultation with *Lusendvo*.
- (2) An *Indvuna* shall not continue to perform the functions of the Chief in terms of this section if the Chief has notified him that he is about to assume or resume the exercise of his functions.

11. Functions of Chiefs

The functions of a Chief are to:

- (a) exercise his powers under this Order to promote the welfare of the community in his chiefdom;
- (b) carry out any instructions given to him by the *Ngwenyama*;
- (c) ensure that the community is informed of issues or developments which affect them as a community or as part of the Swazi Nation;
- (d) convene *Umphakatsi* meetings;
- (e) *kumemeta*;
- (f) arrange chiefdom ceremonies;
- (g) arrange and facilitate national functions; and
- (h) perform such other functions as may be conferred on him by or under this Order or any other law.

12. Khonta

A Chief, after consultation with Bandlancane and in accordance with customary law, may determine questions of admission of persons to the chiefdom.

13. Prevention of crime

- (1) Subject to [section 14](#), a Chief shall promote the prevention of the commission of any offence within his chiefdom.
- (2) A Chief who receives information that any person, who has committed an offence for which he may be arrested without a warrant or for whose arrest a warrant has been issued, is within his chiefdom, shall cause such person to be arrested forthwith and taken to the nearest police station.
- (3) A Chief receiving information that property of any description which has been stolen, whether within or without his chiefdom is within such area, shall cause such property to be seized and taken to the nearest police station where such seizure and detention shall be reported.
- (4) A person acting on and in accordance with instructions lawfully given by a Chief pursuant to the provisions of this section shall be deemed to be empowered to do all that may be reasonably necessary to give effect to such instructions.

14. Power of Chiefs to try cases

- (1) By warrant under his hand, the *Ngwenyama* may recognise or establish within Swaziland Chief's Courts which shall exercise jurisdiction over members of the Swazi Nation within such limits, as may be defined by such warrant.
- (2) The *Ngwenyama* may suspend, cancel or vary any warrant recognising or establishing a Chief's Court, or defining the jurisdiction of any such Court or the limits within which such jurisdiction may be exercised.

15. Constitution of Chief's Courts

A Chief's Court shall be constituted in accordance with customary law.

16. Civil jurisdiction

Subject to [section 18](#), a Chief's Court shall exercise civil jurisdiction, to the extent set out in its warrant and subject to the provisions of this Order, over causes and matters in which all parties are members of the Swazi Nation and the defendant is ordinarily resident, or the cause of action shall have arisen, within the area of jurisdiction of the Court.

17. Criminal jurisdiction

- (1) Subject to subsection (3), a Chief's Court shall exercise criminal jurisdiction to the extent set out in its warrant and subject to the provisions of this Order.
- (2) Such jurisdiction shall extend to the hearing, trial and determination of all criminal charges and matters in which the complainant and the accused are members of the Swazi Nation and the defendant is accused of having, wholly or in part within the jurisdiction of the Court, committed or been accessory to the committing of an offence.
- (3) In exercising its criminal jurisdiction, a Chief's Court shall not impose a fine exceeding three hundred emalangeni, or a term of imprisonment not exceeding three months, or both.

18. Submission to jurisdiction

Notwithstanding the provisions of sections [16](#) and [17](#), a person who is not ordinarily resident within a chiefdom or who is not a Swazi may submit to the jurisdiction a Chief's Court.

19. Cases excluded from ordinary jurisdiction

Subject to any express provision conferring jurisdiction, no Chief's Court shall have jurisdiction to try:

- (a) cases in which a person is charged with an offence in consequence of which death is alleged to have occurred, or which is punishable under any law with death or imprisonment for life;
- (b) cases in connection with marriage other than a marriage contracted under or in accordance with Swazi custom, except where and in so far as the case concerns the payment or return or disposal of lobola or custody of children for whom customary damages have been paid;
- (c) cases relating to witchcraft.

20. Laws to be administered

Subject to the provisions of this Order, a Chiefs Court shall administer:

- (a) the customary law prevailing in Swaziland in so far as it is not repugnant to natural justice or morality or inconsistent with the provisions of any law in force in Swaziland;

- (b) the provisions of all rules or orders by the *Ngwenyama* or a Chief under this Order or any law repealing or replacing the same, and in force within the area of jurisdiction of the Court;
- (c) the provisions of any law which the Court is by or under such law authorised to administer.

21. Recovery of fines, damages, etc.

A Chief's Court may order that any fine, damages or other payment which it shall impose shall be paid at such time or times and by such instalments, and in kind or otherwise, as it shall think just; and in default of payment of any fine or of any instalment of the same when due, the Court may order that the amount of the fine or of the instalment as the case may be, shall be levied by the sale of any property belonging to the offender and situate within the area of the jurisdiction of the Court.

22. Practice and procedure

The practice and procedure of the Chief's Courts shall be regulated in accordance with customary law.

23. Record of cases to be kept

A Chief's Court shall keep, in writing, a record of all cases tried by it.

24. Transfer of cases

- (1) Notwithstanding anything contained in this Order, any member of the Swazi nation who is a party to a dispute, which would in accordance with this Order be heard and determined by a Chief's Court, who has reason to believe that the matter cannot be equitably adjudicated upon by the Court by which it would ordinarily be heard, or by reason of neglect or want of due diligence the adjudication of such Court is being unreasonably delayed, or that the Court has unreasonably refused to hear and adjudicated upon such matter, may report the matter:
 - (a) to the Swazi Court having jurisdiction where the Court concerned is a Chief's Court;
 - (b) to the Swazi Court of Appeal having jurisdiction where the Court concerned is a Swazi Court;
 - (c) to the Higher Swazi Court of Appeal where the Court concerned is the Swazi Court of Appeal;
 - (d) to the Judicial Commissioner where the Court concerned is the Higher Swazi Court of Appeal.
- (2) The Swazi Court, Swazi Court of Appeal, the Higher Swazi Court of Appeal or the Judicial Commissioner, as the case may be, having duly enquired into the matter, shall either:
 - (i) refuse the application; or
 - (ii) hear and determine the matter; or
 - (iii) direct that the matter be heard and determined forthwith by the Court concerned.

25. Appeals

- (1) A person aggrieved by an order or decision of a Chief's Court may, within thirty days from the date of such order or decision, appeal therefrom to a Regional Appeals Court, which shall consist of the Swazi Court Presidents for the Region in which the Chief's Court falls.
- (2) A person aggrieved by an order or decision of a Regional Appeals Court may, within thirty days from the date of such order or decision, appeal therefrom to the Swazi Court of Appeal.
- (3) A person aggrieved by an order or decision of the Swazi Court of Appeal may, within thirty days from the date of such order or decision, appeal therefrom to the Higher Swazi Court of Appeal.

- (4) A person aggrieved by an order or decision of the Higher Swazi Court of Appeal in criminal proceedings may within thirty days from the date of such order or decision appeal therefrom to the Judicial Commissioner.
- (5) A person aggrieved by an order or a decision of the Judicial Commissioner in criminal matters may within thirty days from the date of such order or decision appeal therefrom to the Judicial Commissioner.
- (6) A person aggrieved by an order or decision of the Higher Swazi Court of Appeal in a civil matter may within thirty days from the date of such order or decision appeal therefrom to the High Court.
- (7) Where, in the opinion of a Judge of the High Court, the written record of a case is inadequate for the purpose of the hearing of the Appeal in the High Court he may order the Appeal to be heard in the first instance by the Judicial Commissioner.

26. Parties to appear in person

Notwithstanding anything contained in any other law, no legal practitioner or advocate may appear or act for any party before a Chief's Court.

27. Duty of Swazis to attend before *Ngwenyama*, chiefs and Government Officers when so directed

- (1) Every Swazi when so directed by the *Ngwenyama* or by any Chief within the limit of whose jurisdiction he resides or is for the time being, shall attend before the *Ngwenyama*, such Chief or any other Government officer, or before any Swazi Court having jurisdiction over him.
- (2) A Swazi who, when so directed to attend before the *Ngwenyama* or such Chief, or before such person or court, without reasonable excuse, neglects or refuses to attend as and when directed, may be arrested under the order of the *Ngwenyama* or such chief and taken before the *Ngwenyama* or such person or court:
- (3) Where a Swazi who is required to attend before the *Ngwenyama* or a Chief or Chief's Court is in employment, due notice that he is required to attend before the *Ngwenyama* or such Chief, or Court shall be given in writing to the employer.

28. Power of *Ngwenyama* to issue orders

- (1) Provided that such orders do not conflict with any law, the *Ngwenyama* may issue orders to be obeyed by Swazis within Swaziland:
 - (a) prohibiting, restricting or regulating the manufacture, brewing, sale, transport, distribution, supply, possession and consumption of intoxicating liquors and illicit substances;
 - (b) prohibiting, restricting or regulating gambling;
 - (c) prohibiting, restricting or regulating the carrying or possession of arms;
 - (d) prohibiting any act or conduct which might cause a riot or disturbance or a breach of the peace;
 - (e) preventing the pollution of the water or an injury to any dam, stream, watercourse, waterhole, well, borehole, or other water supply and preventing the obstruction of any stream or watercourse and for the construction, improvement or maintenance of communal water supplies;
 - (f) prohibiting, restricting or regulating the cutting or destruction of trees;
 - (g) preventing the spread of infectious or contagious diseases, whether of human beings or animals, and for the care of the sick;

- (h) requiring Swazis to report to the *Ngwenyama* or to a Chief the presence within the limits of his jurisdiction of any Swazi who has committed an offence for which he may be arrested without a warrant or for whose arrest a warrant has been issued, or believed to have been issued, or of any property stolen or believed to have been stolen whether within or without such limits;
 - (i) prohibiting or restricting the sale, supply, use, possession or cultivation of poisonous or noxious plants and the manufacture of noxious drugs or poisons;
 - (j) preventing overstocking, regulating grazing, and setting aside areas as reserved grazing;
 - (k) prohibiting, restricting or regulating the burning of grass or bush, and the use of fire or lights in any manner likely to ignite any grass or bush, and the extinguishing of grass or bush fires;
 - (l) prohibiting, restricting or regulating the migration of Swazis from or to any particular area or areas under his jurisdiction;
 - (m) requiring the birth, death, child betrothal, or marriage of any Swazi within his jurisdiction to be reported to such person as he may direct;
 - (n) prohibiting, restricting or regulating the movement, sale, disposal or acquisition in, through or within the local limits of his authority of livestock of any description;
 - (o) for the purpose of exterminating or preventing the spread of locusts, mosquitoes or any other pest;
 - (p) requiring any Swazi to cultivate land to such an extent and with such crops as will secure an adequate supply of food for the support of such Swazi and of those dependent upon him;
 - (q) preventing soil erosion and for the protection and construction of anti-soil erosion works;
 - (r) for the purpose of the improvement of livestock and their products;
 - (s) providing for the notification of the finding of stray livestock and their safe custody and disposal;
 - (t) providing for the compilation of information required for census and tax purposes, and assistance in the collection of taxes;
 - (u) providing for the making, maintenance and protection of roads;
 - (v) for the purpose of establishing and regulating Swazi markets;
 - (w) requiring measures to be taken to secure proper housing and sanitation;
 - (x) establishing, maintaining and regulating the use of communal grain reserves;
 - (y) regulating the provision, maintenance and use of tribal or communal water supplies;
 - (z) prohibiting, restricting or regulating wasteful methods of agriculture and eradicating noxious and harmful weeds;
 - (aa) providing for the protection and preservation of game and the destruction of vermin;
 - (bb) prohibiting, restricting, regulating or requiring any matter or thing which the *Ngwenyama*, by virtue of any Swazi law or custom for the time being in force and not repugnant to morality or justice, has power to prohibit, restrict, regulate or require to be done; and
 - (cc) providing for the harmonious and co-ordinated development of Swazi areas, including, where necessary, the settlement or re-settlement of any part which has already been settled, in such a way as will most effectively tend to promote the health, safety, order, amenity, convenience and general welfare of the Swazi people.
- (2) A Chief in *libandla* may, subject to the general or special direction of the *Ngwenyama*, issue orders as provided in subsection (1) to be obeyed by persons resident within the area of his jurisdiction.

- (3) The *Ngwenyama* may at any time instruct the Minister for Home Affairs in writing to make an order containing such conditions as the *Ngwenyama* may consider appropriate for the removal of any person or any of his dependents living with him from one Swazi area to another Swazi area.
- (4) Any order made under subsection (3) shall be served on the person concerned by a messenger of the Minister for Home Affairs by exhibiting the original order to the person concerned and leaving a copy thereof with him or at his place of residence and by depositing another copy at the nearest Royal Swaziland Police Station.
- (5) Any person who fails to comply with an order made under subsection (3) or any of the conditions attached thereto shall, after thirty days of service of the order, have his building or any structure on the Swazi area from which he has been removed, demolished without the payment of any compensation and further commits an offence and shall be liable on conviction to a term of imprisonment of not less than six months without the option of a fine.
- (6) In addition to the penalty prescribed in subsection (5), a person convicted of an offence under that subsection, may be removed from the Swazi area to which the order under subsection (3) relates by a member of the Royal Swaziland Police Force without any further legal process.
- (7) A member of the Royal Swaziland Police Force may also without any further legal process, remove a person who fails to comply with an order made under subsection (3) from the Swazi area to which the order relates before the person is prosecuted for the offence under subsection (5).
- (8) Any person who obstructs or hinders any other person who executes or assists in the execution of an order made under subsection (3) commits an offence and shall be liable on conviction to a term of imprisonment of not less than six months without the option of a fine.
- (9) The period of imprisonment provided in subsections (5) and (9) shall not be suspended.
- (10) A Court shall not have jurisdiction to inquire into any order made under subsection (3) nor shall any Court issue an interdict or otherwise order the stay of such an order as a result of an appeal against conviction under subsection (5).
- (11) A person whose removal has been ordered under subsection (3) or who has, in terms of subsection (6) been removed may, within a period of not more than thirty days from the date when the order was served upon him or such removal effected, apply to *Ngwenyama* (*embule ingubo eNkhosini*) for the review of such an order or removal.

29. Unauthorised buildings

- (1) A person shall not, without the permission of the competent authority, build a homestead in a Swazi area or remove such homestead from one place to another in any Swazi area.
- (2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of six hundred emalangeni or to a term of imprisonment of six months imprisonment, or to both.
- (3) Without prejudice to subsection (2), any building or similar structure erected in contravention of subsection (1) may be demolished by the competent authority without any order of court and no compensation shall be payable in respect of any building or structure so demolished.

30. Power of Chiefs in event of famine

- (1) Whenever in the area of jurisdiction of any Chief there is or is likely to be such shortage of food that a famine exists or is likely to ensue, the Chief in *libandla* may, subject to the provisions of any other law, and subject to the general or special directives of the *Ngwenyama* issue orders within the limits of his jurisdiction:
 - (a) requiring any able bodied person who is otherwise unable to provide food for himself or his dependants, to work on any public works, relief works or in such other employment and for such period as the Chief shall specify;

- (b) requiring any person to move to such place as the Chief may direct in order that that person may be more conveniently fed;
 - (c) prohibiting of limiting the brewing of beer;
 - (d) prohibiting, restricting or regulating the removal of foodstuffs belonging to persons from the area of the Chief's authority and the movement of foodstuffs within such area.
- (2) A person who is working in terms of subsection (1)(a) shall be given such rations and paid such wages as shall be laid down by the *Ngwenyama*, and at the request of such person the wages may be paid wholly or partly in food at such rates as the *Ngwenyama* may specify.

31. Power of *Ngwenyama* in relation to orders which may be issued by Chiefs

- (1) Where, in the opinion of the *Ngwenyama* it is expedient for the good order and government of the area of jurisdiction of a Chief, that any order should be issued which order such Chief in *libandla* is empowered to issue by [section 27](#), the *Ngwenyama* may direct the chief to issue and enforce such order, and if the Chief shall neglect or refuse to issue the order which he is so directed to issue, the *Ngwenyama* may himself issue and enforce such order.
- (2) Where the *Ngwenyama* is of opinion that any order issued by a Chief should not have been issued or should not be enforced, he may direct the Chief to revoke such order or refrain from enforcing it or may himself revoke it and may require the repayment of any fine imposed by a Swazi court, whether before or after such direction, or revocation was issued.

32. Power of the *Ngwenyama* and Chiefs to make rules

- (1) Provided that they do not conflict with any other law, the *Ngwenyama*, and a Chief in *libandla*, with the approval of the *Ngwenyama*, may make rules to be obeyed by Swazis providing for the peace, good order and welfare of Swazis, including rules regarding the public services provided by the *Ngwenyama* in any capacity, and also any matter in respect of which an order under [section 27](#) could have been issued.
- (2) Rules made under this section may prescribe the fees to be paid in respect of any matter or act for which provision is made thereby and may impose penalties for the breach thereof not exceeding a fine of one hundred emalangeni or imprisonment for one year, or to both.
- (3) A Swazi charged with an offence against the rules made under this section may, unless the rules otherwise prescribe, be arrested without warrant by a Chief or by any person under the directions of a Chief and may be tried before a Magistrate's Court or before any Swazi Court having jurisdiction.

33. Publication of orders and rules

- (1) Every order issued under [section 27](#), other than an order issued to an individual, and all rules made under [section 30](#) shall be made known in such manner as is customary amongst Swazis, and thereupon the order or rule, as the case may be, is to be obeyed or observed.

34. Penalties for offences

- (1) When an order is issued under [section 27](#), a penalty for the breach thereof may be specified and different penalties in the case of successive breaches may be specified, and such penalty shall be made known in the manner prescribed in [section 31](#).
- (2) A person who contravenes or fails to obey any order or direction which by this Order he is bound to obey, commits an offence and shall be liable on conviction to the penalty specified in terms of subsection (1), or if no penalty is specified, to a fine not exceeding six hundred emalangeni or to a term of imprisonment for six months, or to both.

- (3) A person who obstructs or interferes with the lawful exercise by the *Ngwenyama* or by a Chief or by a member of the *libandla* of the *Ngwenyama* or of a Chief of any powers conferred by this Order commits an offence and shall be liable on conviction to a term of imprisonment for the period prescribed in subsection (2).
- (4) A person who, not being the *Ngwenyama* or a Chief or a member of the *libandla* of the *Ngwenyama* or of a Chief, holds himself out to be or assumes the powers of the *Ngwenyama* or a Chief or a member of any such *libandla* commits an offence and shall be liable on conviction to a fine not exceeding one thousand emalangeni or to imprisonment not exceeding one year, or to both.
- (5) A person suspected of having committed an offence under this section may be arrested without warrant by directive of the *Ngwenyama* or a Chief or by any person acting under the directions of the *Ngwenyama* or of a Chief, and may be tried before a Magistrate's Court or before any Swazi Court within the area of whose jurisdiction the offence was committed.
- (6) Nothing in this section shall be deemed as authorising a Court to impose heavier penalties than it may impose in the exercise of its ordinary criminal jurisdiction.

35. Penalty for conspiring against the *Ngwenyama* or a Chief

- (1) A person who conspires against, or in any manner attempts to undermine the lawful power and authority of the *Ngwenyama* or any Chief, commits an offence and shall be liable on conviction by a Magistrate's Court, to:
 - (a) a fine not exceeding twenty thousand emalangeni or to a term of imprisonment not exceeding two years, or to both, in the case of an offence in respect of the *Ngwenyama*; or
 - (b) a fine not exceeding fifteen thousand emalangeni or to a term of imprisonment not exceeding one year, or to both, in the case of an offence in respect of a Chief.

36. Penalty to which Chiefs are liable

- (1) A Chief who:
 - (a) wilfully neglects to exercise the powers conferred upon him under this Order for or in respect of the prevention of offences, or the bringing of offenders to justice, or the seizure of property stolen or believed to have been stolen;
 - (b) wilfully and without reasonable excuse, refuses or neglects to exercise any powers given to him under this Order;
 - (c) enforces or attempts to enforce any order issued under [section 27](#) after such order has been revoked;
 - (d) when directed by the *Ngwenyama* to issue orders for any of the purposes specified in [section 27](#) wilfully neglects to issue such order;
 - (e) abuses any authority conferred upon him by this Order or by any other law or by Swazi custom;
 - (f) wilfully neglects to carry out any regulations under this Order:commits an offence and is liable on conviction to a fine not exceeding five thousand emalangeni or to removal from Chieftainship by the *Ngwenyama*.

37. Directives by *Ngwenyama*

- (1) The King may issue directives in writing to any Chief, not inconsistent with the provisions of this Order, for the better carrying out of the provisions of this Order.

- (2) Any Chief who fails to comply with any directive given to him by the *Ngwenyama* shall be liable to such penalty as *Ngwenyama* deems fit.

38. Appointment of Indvuna and Umgijimi

- (1) A Chief may, in accordance with customary law, appoint any person as an *Indvuna* in respect of his chiefdom and may in like manner terminate the appointed.
- (2) A Chief may in accordance with customary law, appoint any person as his *Umgijimi* in respect of any area of his Chiefdom and may in like manner terminate the appointment.
- (3) An *Indvuna* or *Umgijimi* shall have, in relation to the Chiefdom in respect of which he has been appointed, such of the powers and duties of the Chief as the Chief may from time to time delegate to him.
- (4) Every delegation made in pursuance of subsection (3) shall be made known in the customary manner to the persons likely to be affected thereby.

39. Allowances for Chiefs

- (1) Chiefs, *Tindvuna*, *bagijimi* and Bandlancane shall be paid from moneys appropriated by law for that purpose, allowances as may be fixed by the *Ngwenyama*.
- (2) The *Ngwenyama* may, from time to time, review the allowances paid in terms of subsection (1).

40. Prohibition of person from purporting to act as Chief etc.

- (1) If he considers it expedient in the public interest, the *Ngwenyama* may by order:
 - (a) prohibit any person who is not a Chief (whether or not he was formerly appointed as a Chief) from purporting to exercise the functions of a Chief;
 - (b) require a person subject to such a prohibition to reside outside a specified chiefdom;
 - (c) require that no person shall treat as a Chief a person who is subject to such prohibition.
- (2) Before making any order under [section 1\(b\)](#), the *Ngwenyama* shall afford to the person to be affected by the order an opportunity to make any representations he may wish in regard to the order or the terms of the order.
- (3) A person who contravenes the provisions of subsection (1), commits an offence and shall be liable on conviction to a fine not exceeding two hundred emalangeneni or to a term of imprisonment not exceeding one year, or to both.
- (4) No prosecution for any offence under this section shall be instituted except on the written authority of the Attorney-General.

41. Jurisdiction of courts in relation to cause or matter affecting chieftainship

- (1) Notwithstanding any provision of any enactment to the contrary, no court shall have jurisdiction to hear and determine any cause or matter affecting chieftainship.
- (2) For the purposes of this section “cause or matter affecting chieftainship” means any cause, matter, question or dispute relating to any of the following:
 - (a) the appointment of any person as a Chief or the claim of any person to be appointed as a Chief, or
 - (b) appointment or revocation of appointment of a person to be a Chief.

42. Regulations

The *Ngwenyama* may make regulations for the better carrying out of the provisions of this Order and without derogating from the generality of the foregoing, such regulations may prescribe:

- (a) the general conditions of service of;
- (b) the procedure for taking disciplinary actions; and
- (c) the punishment which may be awarded for breaches by persons appointed under this Act.

43. Provision inapplicable to certain proceedings

The provisions of the Criminal Procedure and Evidence Act, No. 67/1938 shall not apply to the proceedings of a Chief's court.

44. Delegation and repeal

- (1) The *Ngwenyama* may, by order published in the *Gazette*, delegate any of his powers and functions of the Minister for Justice.
- (2) The Swazi Administration Act, 1950 is repealed.