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## Swaziland Commercial Board Order, 1975 Kings Order in Council 3 of 1975

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/order-in-council/1975/3/eng@1998-12-01

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PDF created on 21 February 2024 at 17:17.

*Collection last checked for updates: 1 December 1998.*

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## eSwatini

# Swaziland Commercial Board Order, 1975

## Kings Order in Council 3 of 1975

Assented to on 15 February 1975

Commenced on 19 February 1975

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

### A King's Order-in-Council to establish the Swaziland Commercial Board.

#### 1. Short title

This King's Order-in-Council may be cited as The Swaziland Commercial Board Order, 1975.

#### 2. Interpretation

In this Order, unless the context otherwise requires—

“**Board**” means the Swaziland Commercial Board established under [section 3](#);

“**Committee**” means the committee of directors established in terms of [section 7](#);

“**Minister**” means the Minister for Commerce.

#### 3. Establishment of the Swaziland Commercial Board

- (1) There is hereby established a Board to be known as the Swaziland Commercial Board.
- (2) The Board shall be a body corporate and shall—
  - (a) have perpetual succession and a common seal;
  - (b) be capable of suing and being sued in its corporate name;
  - (c) be capable of purchasing and otherwise acquiring and of alienating any movable or immovable property;
  - (d) subject to this Order, have power from time to time to borrow such sums as it may require for its purposes; and
  - (e) be capable of performing all such acts as are necessary for, or incidental to, the carrying out of its objects and the performance of its functions under this Order.

#### 4. Objects of the Board

The objects of the Board shall be—

- (a) with the approval of the Minister, to establish and finance locally owned commercial enterprises and the supervision of their operations during the entire period of such financing;
- (b) to control and supervise the supply of goods to retailers and wholesalers whose businesses the Board has established or has assisted in establishment and to control the price of goods to the consumers;
- (c) to ensure that retailers whom the Board has assisted or financed are adequately trained in the conduct of such businesses;
- (d) to promote extensive and intensive marketing of locally produced goods and commodities;

- (e) to negotiate participation by Swazi citizens in existing commercial enterprises and to assist in the takeover by them of existing commercial enterprises;
- (f) to establish commercial projects and to arrange for share participation in such commercial enterprises by Swazi citizens.

## 5. Authorised capital

- (1) The authorised share capital of the Board shall be E2,000,000 divided into 2,000,000 shares, each having a par value of E1.00, of which 25% shall be fully paid up within one month from the commencement of this Order and the balance shall be fully paid up in three annual instalments, the first of such instalments being not later than the 31st December, 1975.
- (2) The authorised share capital of the Board may be increased by a resolution of the committee, but such resolution shall not take effect without the approval of the Minister.
- (3) All the shares in the Board shall be subscribed for by, and allotted to, the Government or such other statutory body as the Minister may approve of.
- (4) In the event of the authorised share capital of the Board being increased, the additional shares shall be allotted by the committee with the approval of the Minister.
- (5) The liability of the holder of any shares in the Board shall be limited to the amount unpaid on the shares held by him.
- (6) The shares taken up by Government shall be paid for by it from monies to be appropriated for that purpose at such times and in such amounts as may be agreed upon between the Minister and the committee.

## 6. Capital resources, sources and uses

- (1) The ordinary capital resources of the Board shall consist of the following:—
  - (a) the authorised share capital of the Board;
  - (b) funds raised for inclusion in the ordinary capital resources of the Board by borrowings of the Board;
  - (c) funds or income derived from the operations of the Board in which resources referred to in paragraphs (a) and (b) or resources derived therefrom have been used, committed or charged; and
  - (d) any other fund or income received by the Board in the course of its business.
- (2) The Board may borrow funds in Swaziland or elsewhere and for this purpose furnish such collateral or other security as may be reasonably required:

Provided that no money shall be borrowed outside Swaziland without the prior written approval of the Minister.
- (3) The resources and facilities of the Board shall be used exclusively to implement the functions of the Board.
- (4) The Board may invest funds not immediately needed by it for the conduct of its affairs in such securities or other investments as the committee may with the approval of the Minister determine.
- (5) The Board shall establish and maintain separate funds and investments for its long-term insurance business and its short-term insurance business respectively:

Provided that the monies of one fund established under this subsection shall not be lent by it to any other fund established under this subsection.

- (6) The Board shall establish and maintain a general reserve fund within Swaziland, which shall be invested with the approval of the Minister.
- (7) The committee, with the approval of the Minister, may make such rules, including rules relating to financial matters, as are considered necessary or appropriate for the proper functioning of the Board and the carrying out of its objects:  
  
Provided that such rules shall not be inconsistent or in conflict with this Order or any regulations made by the Minister.

## **7. Management and running of Board**

- (1) The Board shall have a committee of directors consisting of six members, two of whom shall be appointed by the Minister, one by the Swazi National Council, one by the Minister for Finance and Economic Planning, one by the Minister for Agriculture and one by the Minister for Industry, Mines and Tourism.
- (2) The chairman of the committee shall be the Principal Secretary of the Ministry of Commerce and he shall have a deliberative and casting vote.
- (3) In the absence of the chairman at any meeting of the committee, the committee shall appoint one of its members to act as chairman for such meeting, but he shall only have a deliberative vote.
- (4) All the powers of the Board shall, subject to this Order, be vested in the committee.
- (5) The committee shall, with the approval of the Minister, appoint a managing director as full-time executive on such terms and conditions as the committee may determine.
- (6) The committee shall appoint such other officers and staff from time to time as it may consider necessary.
- (7) The Minister may, if he is of the opinion that the committee is acting contrary to Government policy, over-rule any decision made by the committee and the committee shall then give effect to any directive by the Minister in respect of such decision.

## **8. Vacation of office of director**

The office of a director shall be vacated if he—

- (a) becomes insolvent;
- (b) becomes of unsound mind;
- (c) is absent from three consecutive meetings of the committee without leave of the committee and is not represented at any such meetings by his alternate director, or
- (d) has at any time, for an offence which is an offence under the laws of Swaziland, been under a sentence of imprisonment for a term of, or exceeding, six months (other than a suspended sentence which has not been enforced) imposed on him by a court in any country or substituted by competent authority for some other sentence imposed on him by such court.

## **9. Accounts**

- (1) The committee shall ensure that proper annual accounts and records, retained in Swaziland, in one of the official languages, are kept covering the operations of the Board and such accounts shall be duly audited by a firm of auditors approved by the Minister.
- (2) The committee shall prepare and transmit an annual report containing an audited statement of accounts to the Minister and to the shareholders of the Board.

- (3) The committee shall prepare and transmit to the Minister and to its shareholders quarterly, a summary statement of its financial position and profit and loss statement showing the results of its operations.
- (4) The Board shall, as at 31st December, 1976 and thereafter at intervals of not more than three years, cause an actuary to make an investigation into the financial conditions, including a valuation of the liabilities, of its long-term business, and shall furnish the Minister and the shareholders with a report of the results of the investigations.
- (5) The report referred to in subsection (4) shall be prepared in accordance with such regulations as the Minister may prescribe.
- (6) The Board shall also publish such other reports as it considers desirable in carrying out its objects and functions and such reports shall be transmitted to the Minister and to the shareholders.

## 10. Regulations

- (1) The Minister may make regulations as to all matters for which he deems it necessary to make regulations in order to carry into effect the principles and purposes of this Order, and without affecting the generality of the afore-going in particular may make regulations prescribing—
  - (a) Articles of Association of the Board which shall have the same effect in relation to the Board as if they were the Articles of Association of a company registered under the Companies Act [No. 7 of 1912](#):  
  
Provided that if such Articles are in any way inconsistent with this Order, the provisions of the Order shall prevail, and the Articles shall be read in all respects as subject to the Order:  
  
And provided further that unless the context otherwise requires any words or expressions used in such Articles shall have the meaning given them under the Interpretation Act, [No. 21 of 1970](#);
  - (b) such fees as he may consider necessary in respect of the issue or transfer of shares in the Board;
  - (c) such remuneration as he may consider reasonable in respect of the remuneration of directors of the Board, including travelling expenses.
- (2) Notwithstanding any other law, the regulations made by the Minister may provide for a penalty not exceeding E1,000 or imprisonment not exceeding six months, or both, in the event of any breach of any such regulations.

## 11. Winding up of the Board

- (1) The Board may resolve that it will be wound up voluntarily:  
  
Provided that such resolution shall not take effect without the written consent of the Minister.
- (2) The Board may be wound up by the High Court on the application of any creditor of the Board for an amount of not less than one hundred Emalangen (E100) or shareholder in the circumstances in which the court would order the winding up of a company under the provisions of the Companies Act, [No. 7 of 1912](#).
- (3) In the event of the Board being wound up under subsection (1) hereof, the provisions of sections 157 to 169, inclusive, and of sections 179 to 181 inclusive of the Companies Act, [No. 7 of 1912](#) shall *mutatis mutandis* apply to such winding up.
- (4) The provisions of the Companies Act [No. 7 of 1912](#) shall *mutatis mutandis* apply to the winding up of the Board pursuant to an order of the court made under subsection (2) hereof.