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## Establishment of the Parliament of Swaziland Order, 1992

### Kings Order in Council 1 of 1992

Legislation as at 1 December 1998

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## Kings Order in Council 1 of 1992

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**Assented to on 10 December 1992**

**Commenced on 16 December 1992**

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

**A King's Order-in-Council to provide for the Establishment of the Parliament of Swaziland and other matters relating thereto.**

### Part 1 – Preliminary

#### 1. Short title and commencement

This Order-in Council may be cited as the Establishment of the Parliament of Swaziland Order, 1992, and shall come into force upon publication in the *Gazette*.

#### 2. Interpretation

Unless the context otherwise requires, in this Order—

“*Bucopho*” means the Committee established in terms of [section 5](#);

“**House**” means the House of Assembly established under Party V;

“*Indvuna yeNkhundla*” means the person appointed in terms of [section 4](#);

“*Inkhundla*” means an *Inkhundla* established in terms of [section 3](#);

“**Minister**” means the Minister responsible for parliamentary affairs;

“*Umphatsi-Lukhetfo*” means the officer responsible for elections of members of the House appointed in terms of the Voter's Registration Order, 1992.

### Part II – *Tinkhundla*

#### 3. Establishment of *Tinkhundla*

- (1) The King may establish or confirm the existence of an *Inkhundla* by public statement made by him at Sibaya or in such other manner as to him may seem fit and shall define the area covered by each *Inkhundla*.
- (2) For the purpose of the election of the elected members of the House of Assembly, Swaziland shall be divided into as many *Tinkhundla* as may be recommended by the Delimitation Commission.
- (3) Save as may be provided by Act of Parliament from time to time, an *Inkhundla* shall perform all such functions as *Tinkhundla* traditionally perform.

#### 4. *Indvuna yeNkhundla*

- (1) The King may appoint an *Indvuna yeNkhundla* to supervise the activities of each *Inkhundla* and to see to it that all the functions of the *Inkhundla* are duly performed.

- (2) The nomination of candidates for *Indvuna yeNkhundla* election shall be by acclamation by *Bandlakhulu* at each *Umphakatsi*.
- (3) The King shall appoint as *Indvuna yeNkhundla* a person elected by the members of the *Inkhundla* concerned by secret ballot who shall be presented to the King by the Chiefs of that *Inkhundla*.
- (4) The *Indvuna yeNkhundla* shall preside over meetings of the *Inkhundla* or the *Inkhundla* Committee (*Bucopho*).
- (5) The tenure of office of the *Indvuna yeNkhundla* shall be five years.

## 5. *Bucopho* (*Inkhundla* Committee)

- (1) There shall be a committee for each *Inkhundla* styled *Bucopho*, which shall be elected by the people of the respective chiefdoms of the *Inkhundla* concerned.
- (2) The nomination and election of candidates for membership of *Bucopho* shall be by a show of hands by *Bandlakhulu* at each *Umphakatsi*.
- (3) *Bucopho* is the executive committee of the *Inkhundla* and is responsible for the proper upkeep and repair of the *Inkhundla* buildings and premises.

## Part III – Elections and qualification of voters

### 6. Right to vote at elections

- (1) Any person who is registered as a voter shall be entitled to vote at any election of a member to the House of Assembly and, in the case of any general election, shall be entitled to cast one vote at primary and secondary elections.
- (2) No person shall be entitled to vote in terms of sub-section (1) if on the date prescribed for polling he is for any reason unable to attend in person at the place and time prescribed for polling except as it may otherwise be prescribed.
- (3) No person shall vote at any election for a candidate who is not registered as a voter in that *Inkhundla* or polling division.

### 7. Election by secret ballot

The election of the elected members of the House of Assembly shall be done by secret ballot at both primary and secondary levels.

[Amended K.O-I-C 10/1993]

### 8. Supervision of elections by *Umphatsi-Lukhetfo* (Chief Electoral Officer)

The election of the elected members of the House of Assembly at both primary and secondary levels shall be under the general responsibility and supervision of *Umphatsi-Lukhetfo* acting as an independent commission as may be prescribed under any law regulating the registration of voters and the conduct of elections.

### 9. Qualification of voters

- (1) Subject to the provisions of [section 7](#), a person shall be qualified to be registered as a voter for the purpose of election of elected members of the House of Assembly if, and shall not be qualified unless, he has attained the age of eighteen years and is a citizen of Swaziland.
- (2) A person shall be entitled to be registered in one *Inkhundla* or polling division only.

## 10. Disqualification of voters

No person shall be qualified to be registered as a voter or to vote, if—

- (a) he is certified to be insane or otherwise adjudged to be of unsound mind under any law in force in Swaziland;
- (b) he is, for an offence which is a criminal offence in Swaziland, under sentence of death imposed on him by a court in any country.

## 11. Delimitation Commission

- (1) There shall be a Delimitation Commission which shall be appointed by the King after consultation with the Minister.
- (2) The Commission shall consist of a chairman and four other members.
- (3) The chairman of the Commission shall be a person who possesses such qualities as the King may deem fit.
- (4) No person shall be qualified to be appointed as a member of the Commission if—
  - (a) he is a Senator or a member of the House of Assembly or is nominated for election to the House of Assembly;
  - (b) during the period of five years immediately preceding the date of appointment—
    - (i) he has been a member of Senate or House of Assembly;
    - (ii) he has been nominated to the Senate or House of Assembly;
  - (c) he is a public officer.
- (5) A person shall not be disqualified under subsection (4) by reason only that he has been Speaker of the House of Assembly or President of Senate.
- (6) In the exercise of its functions the Commission shall not be subject to the direction of or control by any other person or authority.
- (7) The Commission may regulate its own procedure and with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government for the purpose of its functions.
- (8) The Commission may act notwithstanding any vacancy in its membership.
- (9) The Commission shall be appointed on such other terms and conditions as the King after consultation with the Minister, may determine.

## 12. Election of members of the House of Assembly

- (1) The elections for the elected members of the House of Assembly shall be conducted at primary and secondary levels.
- (2) The primary elections shall take place at *Imiphakatsi* and such other polling divisions as may be determined by the Delimitation Commission.
- (3) The secondary elections shall take place at *Tinkhundla* centres, at which the candidates shall be those persons who have been elected at the primary level.
- (4) Immediately after primary elections and before secondary elections, each candidate shall be afforded an opportunity, on an equal basis, to address the *Inkhundla* meeting on development and other issues, in line with national policy.

## Part IV – Establishment and composition of Parliament

### 13. Establishment of Parliament

There is hereby established the Parliament of Swaziland which consists of a Senate and House of Assembly.

### 14. Composition of Senate

- (1) The Senate shall consist of thirty members (hereinafter called “Senators”).
- (2) Ten Senators shall be elected by the House of Assembly.
- (3) Twenty Senators shall be appointed by the King to include Chiefs, *Bantfwabenhosi* and Special interests.
- (4) The appointment of Chiefs to Parliament shall take account of regional interests and shall be made on rotational basis.
- (5) The King shall appoint the Senators after consultation with such bodies as the King may consider appropriate in an endeavour to appoint such persons who are by reason of their special knowledge or practical experience able to represent cultural, economic and social interests and able to contribute substantially to the good government of Swaziland.

### 15. Election of Senators

The election of members to the Senate by the House of Assembly shall be by a majority vote of those present and voting, and in the case of a tie there shall be a further election of the persons who have tied until all the persons shall have been elected.

### 16. Composition of the House of Assembly

The House of Assembly shall consist of as many members as there are *Tinkhundla* elected directly one from each *Inkhundla*, ten members appointed by the King, and the Attorney-General who shall be an *ex officio* member.

### 17. Elected members of the House of Assembly

Swaziland shall in accordance with the determination of the Delimitation Commission, be divided into *Tinkhundla* and each *Inkhundla* shall elect one member to the House in such manner as may be prescribed by law.

### 18. Nominated members of the House of Assembly

The nominated members of the House of Assembly shall be appointed by the King, after consultation with such bodies as he may consider appropriate and after taking into account any special interest not already adequately represented in the House.

### 19. Qualifications for membership of Parliament

Subject to the provisions of [section 20](#) a person shall be qualified to be elected or appointed as a Senator or to be elected or appointed as a member of the House of Assembly if, and shall not be qualified to be so elected or appointed unless, he—

- (a) is ordinarily resident in Swaziland;
- (b) is a person qualified for registration as a voter; and



- (c) has been so registered in any *Inkhundla*.

## 20. Disqualifications for membership of Parliament

- (1) No person shall be qualified to be elected or appointed as a Senator or to be elected as an elected member or appointed as a nominated member of the House of Assembly who—
- (a) is, by virtue of his own act, under acknowledgment of allegiance, obedience or adherence to a foreign power or state;
  - (b) is a member of the armed forces of Swaziland or is holding or acting in any public office or is holding or acting in any other office established by or under any law that may be prescribed;
  - (c) is a party to, or is a partner in a firm or a director or manager of a company which is a party to, any subsisting Government contract, and has not made the appropriate disclosure of the nature of the contract and his interest, or the interest of the firm or company, therein:

Provided that the provisions of this paragraph shall not apply in the case of a Senator or a nominated member of the House of Assembly if he is appointed as such without his consent being obtained prior to the appointment;

- (d) is an unrehabilitated insolvent or an undischarged bankrupt, having been adjudged or otherwise declared an insolvent or a bankrupt under any law for the time being in force in any country;
- (e) is certified to be insane or otherwise adjudged to be of unsound mind under any law for the time being in force in Swaziland;
- (f) is, for an offence which is criminal offence under the law of Swaziland, under sentence of death imposed on him by a court in any country, or is, for such an offence, under a sentence of imprisonment (by whatever name called) for a term of or exceeding six months, including a suspended sentence, imposed on him by such a court or substituted by the competent authority for some other sentence imposed on him by such a court;
- (g) has at any time been, for an offence which is a criminal offence under the law of Swaziland, 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 a court:

Provided that if two years or more have elapsed since the termination of the sentence of imprisonment, the person shall not be disqualified for membership of Parliament by reason only of such sentence;

- (h) is disqualified for membership of the Senate or House of Assembly under any law for the time being in force relating to offences connected with elections; or
  - (i) in the case of an elected member of the house of Assembly, holds or is acting in, any office, the functions of which involve any responsibility for, or in connection with, the conduct of any election or the compilation or revision of any electoral register.
- (2) For the purposes of subsection (1)(c) the appropriate disclosure of the nature of and interest in a Government contract shall be—
- (a) in the case of an elected Senator, disclosure to the elected members of the House of Assembly through the Speaker of the house immediately after the election is held under section 39 of this order;
  - (b) in the case of an appointed Senator or a nominated member of the House of Assembly, disclosure to the King immediately after the appointment is made;

- (c) in the case of an elected member of the House of Assembly, disclosure during the period commencing with the notification of the writ for the election in the *Gazette* and ending three days before the date of the election, by publication of a notice in English in the *Gazette* and in English and Siswati in a newspaper circulating in Swaziland.

## 21. Tenure of seats of members of Parliament

A Senator or a member of the house of Assembly shall vacate his seat as such if, but only if,—

- (a) Parliament is dissolved;
- (b) he resigns his seat by writing under his hand addressed to the President or Speaker of the chamber;
- (c) he is absent from two consecutive meetings of the Senate or, as the case may be, House of Assembly, without having obtained before the termination of either meeting from the President or Speaker, or other person presiding, permission to be or to remain absent therefrom;
- (d) in the case of a Senator or nominated member who was appointed without his consent being obtained prior to the appointment, he is at the time of his appointment a party to, or is a partner in a firm or a director or manager of a company which is a party to, a subsisting Government contract and has not within one week after his appointment been exempted by the King, by writing under his hand, from vacating his seat;
- (e) he becomes a party to any Government contract, or if any firm in which he is a partner or any company of which he is a director or manager becomes a party to any such contract, or if he becomes a partner in a firm or a manager of a company which is a party to any such contract:

Provided that, if in the circumstances it appears to them to be just to do so, the Senate may by resolution exempt a Senator and the House of Assembly may by resolution exempt a member of the House from vacating his seat under the provisions of this paragraph, if the member, before becoming a party to the contract or before or as soon as practicable after becoming otherwise interested in the contract (whether as a partner in a firm or as a director or manager of a company), discloses to the President of the Senate or the Speaker of the House, as the case may be, the nature of the contract and his interest, or the interest, of the firm or company, therein;

- (f) he ceases to be qualified for registration as a voter;
- (g) he ceases to be ordinarily resident in Swaziland;
- (h) he becomes a member of the other chamber of Parliament;
- (i) any circumstances arise that, if he were not a Senator or a member of the House of Assembly, would cause him to be disqualified for election or appointment thereto by virtue of [section 20\(1\)](#) (a), (b), (d), (e), (h) or (i); or
- (j) the circumstances mentioned in [section 22](#) arise.

## 22. Vacation of seats on sentence, etc.

- (1) Subject to the provisions of this section, if a Senator or an elected member or a nominated member of the House of Assembly is for an offence which is a criminal offence under the law of Swaziland, sentenced by a court in any country to death or to imprisonment (by whatever named called) for a term of or exceeding six months, including a suspended sentence, he shall forthwith cease to perform his functions as a Senator or member of the House and his seat therein shall become vacant at the expiration of a period of thirty days thereafter:

Provided that this Section shall not apply to a person who has been sentenced by Court of a foreign country for a political offence:

Provided that the President of the Senate or the Speaker of the House, as the case may be at the request of the member, from time to time extend that period for thirty days to enable the member

to pursue any appeal in respect of his conviction or sentence, so however that extensions of time exceeding in the aggregate one hundred and eighty days shall not be granted without the approval of the Senate or House signified by resolution.

- (2) If at any time before the Senator or member vacates his seat he receives a free pardon or his conviction is set aside or his sentence is reduced to a term of imprisonment of less than six months or a punishment is substituted, his seat in the Senate or House of Assembly shall not become vacant under the provisions of this section, and he may again perform his functions as a Senator or member of the House of Assembly.

### **23. President and Deputy President of Senate**

- (1) When the Senate first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the President of the Senate, and if the office of President falls vacant at any time before the next dissolution of Parliament, the Senate shall elect as soon as practicable another person to that office.
- (2) At any time after the election of a President the Senate may, if it thinks fit, elect a person to be the Deputy President of the Senate, and if the office of Deputy President falls vacant at any time before the next dissolution of Parliament, the Senate may, if it thinks fit, elect another person to that office.
- (3) The President or Deputy President shall be elected from among the Senators who are not Ministers.
- (4) A person shall vacate the office of President or Deputy President—
  - (a) if, having been elected from among the Senators, he ceases to be a Senator otherwise than by a dissolution of Parliament or if he is appointed to be a Minister or if he is required, by virtue of [section 21](#) to cease to perform his functions as a Senator;
  - (b) when the Senate first sits after any dissolution of Parliament;
  - (c) if he is removed from office by a resolution of the Senate supported by the votes of not less than two-thirds of all the Senators; or
  - (d) in the case of the Deputy President, if he is elected as President.
- (5) A person holding the office of President or Deputy President may resign his office by writing under his hand addressed to the Senate and the office shall become vacant when the writing is received by the Clerk to the Senate.
- (6) During any period when a person holding the office of Deputy President is acting as President of the Senate, he shall not perform the functions of Deputy President.

### **24. Speaker and Deputy Speaker of the House of Assembly**

- (1) When the House of Assembly first meets after any general election and before it proceeds to the despatch of any other business, it shall elect a person to be the Speaker of the House of Assembly; and if the office of Speaker falls vacant at any time before the next dissolution of Parliament, the House shall elect as soon as practicable another person to that office.
- (2) At any time after the election of a Speaker the House of Assembly may, if it thinks fit, elect a person to be the Deputy Speaker of the House of Assembly, and if the office of Deputy Speaker falls vacant at any time before the next dissolution of Parliament, the House may, if it thinks fit, elect another person to that office.
- (3) The Speaker or Deputy Speaker shall be elected from the members of the House other than the Attorney-General or Ministers.

- (4) A person shall vacate the office of Speaker or Deputy Speaker of the House of Assembly—
  - (a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by the dissolution of Parliament or if he is appointed to be a Minister or Attorney-General or if he is required, by virtue of [Section 21](#), to cease to perform his functions as a member of the House;
  - (b) when the House first sits after any dissolution of Parliament;
  - (c) if he is removed from office by a resolution of the House supported by the votes of not less than two-thirds of all the members thereof; or
  - (d) in the case of the Deputy Speaker, if he is elected as Speaker.
- (5) A person holding the office of Speaker or Deputy Speaker may resign his office by writing under his hand addressed to the House and the office shall become vacant when the writing is received by the Clerk to the House.
- (6) During any period when a person holding the office of Deputy Speaker is acting as Speaker of the House of Assembly he shall not perform the functions of Deputy Speaker.

## 25. Acting President and Speaker

- (1) During any period when the office of President or Speaker is vacant or the holder of the office of President or Speaker is absent from Swaziland or is for any other reason unable to perform the functions of his office, the Senate or the House of Assembly, as the case maybe, may elect a person (not being a Minister or the Attorney-General) from among the members of the chamber to act as President or Speaker until a President or Speaker has been elected or, as the case may be, the President or Speaker has resumed the functions of his office.
- (2) During any period when the office of Deputy President or Deputy Speaker is vacant or the holder of the office of Deputy President or Deputy Speaker is absent from Swaziland or is acting as President or Speaker or is for any other reason unable to perform the functions of his office, the Senate or the House of Assembly, as the case maybe, may elect a person (not being a Minister, or the Attorney-General) from among the members of the chamber to act as Deputy President or Deputy Speaker until a Deputy President or Deputy Speaker has been elected or, as the case may be, the Deputy President or Deputy Speaker has resumed the functions of his office.
- (3) The provisions of section [22\(4\)](#) and [22\(5\)](#) shall apply in relation to a person elected under this section act to as President or Deputy President of the Senate as they apply in relation to the holder of the office of President or Deputy President, and the provisions of section [23\(4\)](#) and [23\(5\)](#) shall apply in relation to a person elected under this section to act as Speaker or Deputy Speaker as they apply in relation to the holder of the office of Speaker or Deputy Speaker.

## 26. Clerk of Parliament

There shall be a Clerk to Parliament who shall be in charge over all the administration of Parliament.

## 27. Clerks to Senate and House of Assembly and their staffs

- (1) There shall be a Clerk to the Senate and Clerk to the House of Assembly.
- (2) The offices of the Clerk to the Senate and the Clerk to the House of Assembly and of the members of their staffs shall be officers in the public service.
- (3) Nothing in this section shall be constructed as preventing the appointment of one person to the offices of Clerk to the Senate and Clerk to the House of Assembly or the appointment of one person to any office on the staff of the Clerk to the Senate and any office on the staff of the Clerk to the House of Assembly.

## 28. Decision of questions as to membership of Parliament

- (1) The High Court shall have jurisdiction to hear and determine any question whether—
  - (a) any person has been validly elected a Senator by the members of the House of Assembly;
  - (b) any person has been validly elected as an elected member of the House;
  - (c) any person who has been elected as President or Deputy President of the Senate or as Speaker or Deputy Speaker of the house was qualified to be so elected.
- (2) An application to the High Court may be made for the determination of any question—
  - (a) under subsection (1)(a), by any elected member of the House of Assembly or by the Attorney-General;
  - (b) under subsection (1)(b) and (c), by any Senator or elected or nominated member of the House, as the case may be, or by the Attorney-General.

## 29. Interpretation

- (1) In this Part of this Order “**Government contract**” means a contract with the Government for or on account of the public service the consideration for which exceeds one thousand emalangeni or which forms part of a large transaction or series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration exceeds one thousand emalangeni.
- (2) For the purpose of this Part of this Order—
  - (a) two or more terms of imprisonment that are required to be served consecutively shall be regarded as a single term of imprisonment for the aggregate period of those terms;
  - (b) references to a sentence of imprisonment shall not include a sentence of imprisonment in lieu of a fine.

## Part V – Summoning, prorogating and dissolution

### 30. Sessions of Parliament, etc.

- (1) Each session of Parliament shall be held at such place within Swaziland and begin at such time (not being later than twelve months from the end of the preceding session if Parliament has been prorogued or four months from the holding of a general election of elected members of the House if Parliament has been dissolved) as the King may appoint.

*[Amended D.4/1993]*

- (2) Subject to subsection (1), the sittings of each Chamber of Parliament shall be held at time and place as such chamber may, by its rules of procedure or otherwise, determine.

### 31. Prorogation and dissolution of Parliament

- (1) The King may at any time prorogue or dissolve Parliament.
- (2) Subject to subsection (3), Parliament unless sooner dissolved shall continue for five years from the date when the House first meets after any dissolution of Parliament and shall then stand dissolved.
- (3) At any time when Swaziland is at war the period of five years specified in subsection (2) may be extended by Act of Parliament for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

### **32. Recalling Parliament in case of emergency**

If, between a dissolution of Parliament and the next ensuing general election of elected members of the House, an emergency arises of such a nature that in the opinion of the King, after consultation with the Prime Minister, it is necessary for the two chambers of Parliament to be summoned before such general election can be held the King may by notice in the *Gazette* and a newspaper circulating in Swaziland summon the preceding chambers of Parliament as constituted immediately before such dissolution, and such chambers shall thereupon be deemed not to have been dissolved but shall be deemed to be dissolved on the date when the next ensuing general election of elected members of the House is held.

## **Part VI – Legislation and procedure in Parliament**

### **33. Power to make laws**

Subject to this Order, the King and Parliament may make laws for the peace, order and good government of Swaziland.

### **34. Oaths to be taken by members of Parliament**

- (1) Every member of either chamber of Parliament shall, before taking his seat in that chamber, take and subscribe before the chamber the oath of allegiance that is set out in Schedule 2 or such other oath may be prescribed, but a member may before taking and subscribing that oath take part in the election of the President or Speaker of the chamber.
- (2) Any person elected as President or Deputy President or Speaker or Deputy Speaker of a chamber of Parliament shall if he has not already taken and subscribed the oath of allegiance under subsection (1), take and subscribe that oath before the chamber before entering upon the duties of his office.

### **35. Presiding in Senate**

- (1) There shall preside at any sitting in the Senate—
  - (a) the President of the Senate;
  - (b) in the absence of the President and in circumstances in which the rules of procedure of the Senate authorises the Deputy President to preside, the Deputy President, or
  - (c) in the absence of the President or the Deputy President such other Senator as the Senate may elect for the purpose of presiding at the sitting.
- (2) Any reference in this section to circumstances in which the President or Deputy President is absent include a reference to circumstances in which the office of President or Deputy President is vacant.

### **36. Presiding in House of Assembly**

- (1) There shall preside at any sitting of the House—
  - (a) the Speaker of the House;
  - (b) in the absence of the Speaker and in circumstances in which the rules of procedure of the House authorises a Deputy Speaker to preside, the Deputy Speaker, or
  - (c) in the absence of the Speaker and a Deputy Speaker authorised as aforesaid to preside such member as the House may elect for the purpose of presiding at the sitting.
- (2) Any reference in this section to circumstances in which the Speaker or Deputy Speaker is absent includes a reference to circumstances in which the office of Speaker or Deputy Speaker is vacant.

**37. Quorum in Senate and House of Assembly**

- (1) If objection is taken by a Senator who is present that there are present in the Senate (besides the person presiding) fewer than half Senators and, after such interval as may be prescribed in the rules of procedure of the Senate the person presiding ascertains that there are still fewer than half Senators present, he shall thereupon adjourn the Senate.
- (2) If objection is taken by any member of the house who is present that there are present in the House (besides the person presiding) fewer than half members of the House and after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that there are still fewer than half members of the House present, he shall thereupon adjourn the House.

**38. Voting in Parliament**

- (1) Any question proposed for discussion in either chamber of Parliament shall be determined by a majority of the votes of the members thereof present and voting.
- (2) The President of Senate or the Speaker of the house or a member of either chamber of Parliament presiding in such chamber shall have a deliberative but not a casting vote.
- (3) The Attorney-General shall have no vote in either chamber of Parliament.
- (4) If upon any question before either chamber votes of the members are equally divided the motion shall be lost.
- (5) The rules of procedure of either chamber of Parliament may make provision under which a member who votes upon a question in which he or his spouse has a direct pecuniary interest shall be deemed not to have voted.

**39. Right of Minister etc., to address either Chamber of Parliament**

A Minister who is a member of the House or the Attorney-General shall be entitled to attend all meetings of the Senate and to take part in all proceedings thereof, but he shall not be regarded as a member of, or be entitled to vote on any question before the Senate, and a Minister who is a Senator shall be entitled to attend all meetings of the House and to take part in all proceedings thereof, but he shall not be regarded as a member of, or be entitled to vote on any question before, the House.

**40. Unqualified persons sitting or voting**

- (1) Any person who sits or votes in either chamber knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and liable on conviction to a fine of one thousand Emalangeni for each day on which he so sits and votes in such chamber.
- (2) Any prosecution for an offence under this section shall be instituted summarily in the High Court but shall not be so instituted without the written consent of the Attorney-General.

**41. Mode of exercise of power to make laws**

- (1) The power of the King and Parliament to make laws shall be exercised by Bills—
  - (a) passed by both chambers of Parliament;
  - (b) in the cases mentioned in Sections 42, 43, and 44(3) passed by the House, and
  - (c) in the cases mentioned in Sections 44(2) and 45 passed at a joint sitting of the Senate and the House, and assented to by the King under his signature.



- (2) Subject to [section 45](#), when a Bill has been presented to the King for assent in terms of subsection (1) he shall under his signature notify that he assents or withholds assent—
  - (a) in the case of an Appropriation Bill forthwith, and
  - (b) in the case of any other Bills within thirty days.
- (3) When a Bill which has been duly passed is assented to by the King it shall thereupon become law and the Attorney-General shall forthwith cause it to be published in the *Gazette* as a law:  
 Provided that no such law shall come into operation until it has been so gazetted.  
 And provided further that the King and Parliament may postpone in whole or in part the coming into operation of any such law and make laws with retrospective effect in which cases a reference thereto shall be made in the laws as published in the *Gazette*.
- (4) All laws made by the King and Parliament shall be styled “Acts of PARLIAMENT” and the words of enactment shall be “ENACTED by the King and the Parliament of Swaziland.”

#### 42. Introduction of Bills etc.

- (1) A Bill may be introduced in either chamber of Parliament:  
 Provided that a money bill shall not be introduced by the Senate.
- (2) Save with the consent of the Cabinet signified by the Prime Minister or the Minister responsible for finance, neither chamber shall—
  - (a) proceed upon any Bill or amendment thereof which in the opinion of the person presiding, makes provision for any of the following purposes—
    - (i) the imposition of taxation or the alteration of taxation otherwise than by reduction;
    - (ii) the imposition of any charge upon the Consolidated Fund or the alteration of any such charge otherwise than by reduction;
    - (iii) the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Swaziland of any moneys not charged thereon or any increases in the amount of such payment, issue or withdrawal, or
    - (iv) the composition or remission of any debt to the Government; or
  - (b) proceeding on any motion (including an amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

#### 43. Limitation on powers of Senate with respect to Appropriation Bills

- (1) When a Bill that is passed in the House and has been certified by the Speaker under subsection (2) as an Appropriation Bill is sent to the Senate it shall forthwith be introduced in the Senate and shall be passed by the Senate without delay.
- (2) If such Bill is not passed by the Senate within five days after the day on which it was sent to the Senate or if it is passed by the Senate with amendments to which the House does not by then agree, the Bill with any amendments as may have been agreed upon by both chambers, shall, unless the House otherwise resolves, be presented to the King for his assent.
- (3) When a Bill in the opinion of the Speaker is an Appropriation Bill is sent to the Senate from the House it shall be on the certificate of the Speaker that it is an Appropriation Bill.
- (4) If Senate is not satisfied with a money Bill or Appropriation Bill, it shall have the power to return the Bills to the House for further consideration.



#### 44. Limitation on power of Senate with respect to other money bills

- (1) Subject to [section 43](#), when a Bill which is passed by the House is certified by the Speaker under subsection (2) as a money Bill other than an Appropriation Bill, and having been sent to the Senate at least thirty days before the end of the session, is not passed by the Senate within such thirty days or is passed by it with such amendment to which the House does not agree within thirty days after it was sent to the Senate, such Bill with any amendments thereto as many have been agreed upon by both Chambers shall, unless the House otherwise resolves, be presented to the King for his assent.
- (2) When a Bill, which in the opinion of the Speaker is a money Bill other than an Appropriation Bill, is sent to the Senate from the House it shall bear the certificate of the Speaker that it is such a Bill.

#### 45. Limitation of powers of Senate with respect to urgent Bills

- (1) This section applies to a Bill, other than a Bill certified under Sections [43](#) and [44](#).
- (2) Subject to subsection (3), when a Bill to which this Section applies having been introduced and passed by one chamber of Parliament has been sent by it to the other chamber at least ninety days before the end of the session, and has been considered by such other chamber within such ninety days but has not within such period been passed either without amendment or with any amendment agreed to by the chamber in which the Bill was introduced, neither chamber shall proceed further on the Bill, which shall be referred to a joint sitting of the Senate and the House in accordance with Schedule 4.
- (3) If a Bill to which this Section applies, having been introduced and passed by the House has been sent to the Senate at least ninety days before the end of the session and is not considered by the Senate within such ninety days, the bill shall not be referred to a joint sitting of the Senate and the House, but shall, unless the House otherwise resolves, be presented to the King for assent.

#### 46. Reference back of Bills by King

- (1) This section applies to a Bill, other than a Bill certified under Section [41](#)(3) or [42](#) (2) or a Bill which has been passed at a joint sitting of the Senate and the House.
- (2) When a Bill to which this Section applies, having been passed by both chambers sitting separately, is presented to the King for assent, the King, acting in his discretion, may by message refer back either the whole Bill or such provisions as he may specify for consideration at a joint sitting of the Senate and House and the provisions of Schedule 1 shall apply.
- (3) If, within ninety days of the message by the King referred to in subsection (2) the Bill if passed by a joint sitting of the Senate and the House it shall again be presented to the King for his assent, but if it is not so passed the Bill shall lapse.

#### 47. Interpretation and functions of the Speaker

- (1) In this Part “**money Bill**” means a Bill that contains only provisions dealing with—
  - (a) the imposition, repeal, revision, alteration or regulation of taxation;
  - (b) the imposition of charges on the Consolidated Fund or any other public Fund of Swaziland or the variation or repeal of any such charges;
  - (c) the grant of money to the King or to any other person or authority or the variation or revocation of such grant;
  - (d) the appropriation, receipt, custody, investment, issue or audit of the accounts of public money;
  - (e) the raising or guaranteeing of any loan or the repayment thereof; or

(f) subordinate matters incidental to any of these matters:

Provided that the expressions “**taxation**”, “public money”, and “loan” do not include any taxation, money or loan raised by local governmental authorities or other local bodies.

- (2) When a Bill is presented to the King for assent in pursuance of sections [41\(1\)](#), [42\(1\)](#), [43](#) or [44](#) as the case may be, it shall bear the certificate of the Speaker that these Sections have been complied with.
- (3) Any function under this section or sections [41](#), [42](#), [43](#) or [44](#) which falls to be exercised by the Speaker, may, if he is absent or is for any other reason unable to exercise it, be exercised by the Deputy Speaker.
- (4) A certificate given by the Speaker or Deputy Speaker, as the case may be, shall be conclusive for all purposes and shall not be questioned in any court of law.

#### **48. Regulation of procedure in Parliament**

- (1) Subject to this Order, each chamber or Parliament may regulate its own procedure.
- (2) Each chamber may notwithstanding any vacancy in its membership (including any vacancy not filled when the chamber first meets after any general election) and the presence or participation of any person not entitled to be present at or participate in the proceedings of the Chamber shall not invalidate such proceedings, unless that chamber decides otherwise.
- (3) Subject to this Order, the Standing Orders of the House of Assembly, 1968, published under [Legal Notice No. 52/1968](#), the Standing Orders relating to Private Bills, 1969, published under [Legal Notice No. 17/1969](#), the Standing Orders of the Senate relating to public business published under [Legal Notice No. 47/1970](#) shall *mutatis mutandis* apply to the procedure and conduct of the business of the House of Assembly and Senate unless and until altered or repealed by either Chamber or Parliament.

### **Part VII – The Executive**

#### **49. Executive authority of Swaziland**

- (1) Subject to this Order, the executive authority of Swaziland shall vest in the King.
- (2) Save as otherwise provided in this Order such authority may be exercised by the King directly or through officers or authorities of the Government of Swaziland.
- (3) Nothing in this section shall prevent the conferment by Act of Parliament of functions on persons or authorities other than the King.

#### **50. Ministers**

- (1) There shall be a Prime Minister who shall be appointed by the King from among the members of the House.
- (2) In addition to the Prime Minister there shall be a Deputy Prime Minister and such other Ministers of the Government as the King may appoint with the advice of the Prime Minister.
- (3) Ministers may be appointed from both chambers of Parliament.
- (4) The majority of the Ministers shall be appointed from among members of the House.
- (5) For the purposes of this section, during any period when Parliament is dissolved a person who was an elected or appointed member of either chamber immediately before the dissolution shall be regarded as continuing as an elected or appointed member as the case may be.

## 51. Tenure of office of Prime Minister and other Ministers

- (1) The office of Prime Minister or any other Minister shall become vacant if—
  - (a) he ceases to be a member of Parliament otherwise than by reason of a dissolution of Parliament;
  - (b) when Parliament first meets after a dissolution of Parliament, he is not then a member thereof, or
  - (c) he resigns from office.
- (2) The King may remove the Prime Minister or any other Minister from office at any time.
- (3) The King May further remove from office the Prime Minister or Ministers, if a resolution of no confidence in him or in the Government is passed by the House or if he becomes unable to perform the functions of his office (whether arising from infirmity of body or mind) or for misbehaviour:

Provided that before removing the Prime Minister or other Minister from office on the ground of any such inability or misbehaviour the king shall appoint a tribunal consisting of a chairman and two other persons to enquire into the matter and report to the King on the facts thereof and render such advice to the King as it may deem fit:

Provided further that the King shall not remove the Prime Minister from office on the ground that a vote of no confidence has been in him or the Government unless three days have elapsed since such vote was passed and the King has decided not to dissolve Parliament under [Section 31\(2\)](#).
- (4) All questions for decision by the tribunal referred to in subsection (2) shall be decided by a majority vote of the chairman and the other two members.
- (5) The provisions of the Commission of Enquiry Act [No. 35 of 1963](#) shall subject to this Order, *mutatis mutandis*, apply to the procedure of the tribunal:

Provided that—

  - (a) the enquiry shall be held *in camera*;
  - (b) the fact of the appointment of the tribunal shall not be published in the *Gazette*;
  - (c) its report shall be a confidential report to the King only, and
  - (d) the proceedings or regularity of the inquiry or its decision shall not be challengeable in a Court of law.

## 52. Cabinet

- (1) There shall be a Cabinet of Ministers, consisting of the Prime Minister and other Ministers.
- (2) The functions of the Cabinet shall be to advise the King in the government of Swaziland, and the Cabinet shall be collectively responsible to Parliament for any advice given to the King by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.

## 53. Assignment of responsibilities to Ministers

The King may after consultation with the Prime Minister by directions in writing assign to the Prime Minister or any other Minister responsibility for the conduct (subject to this Order or any other law) of any business of the Government of Swaziland including the administration of any department of government.

**54. Exercise of the Prime Minister's functions during his absence or illness**

If the Prime Minister is absent from Swaziland or is by reason of illness or any other cause whatsoever unable to exercise the functions conferred on him by this Order, such functions shall be exercised by the Deputy Prime Minister or if the Deputy Prime Minister is for any reason whatsoever unable to exercise the functions of the office of Prime Minister, by such other Minister as the King may, by directions, in writing, authorise in that behalf.

**55. King to be consulted and informed concerning matters of Government**

The King may require the Prime Minister and other Ministers to consult with him on any matter relating to the Government of Swaziland, and the Prime Minister shall keep the King fully informed concerning the general conduct of the government of Swaziland and shall furnish him with such information as he may request in respect of any particular matter relating to the government of Swaziland.

**56. Oaths of Ministers**

A Minister shall not enter upon the duties of his office unless he has taken and subscribed to the Oath of Allegiance and the oath for the due execution of his office that are set out in Schedule, 2 and such the Attorney-General or his Deputy.

**57. Secretary to Cabinet**

- (1) There shall be a Secretary to the Cabinet whose office shall be an office in the public service.
- (2) The Secretary to the Cabinet shall have charge of the Cabinet office and shall be responsible in accordance with such general or specific instructions as may be given by the Prime Minister for arranging the business for, and keeping the minutes of the meetings of the Cabinet and for conveying decisions of the Cabinet to the appropriate person or authority, and shall have such other functions as the Prime Minister may from time to time direct.

**58. Direct of government departments**

If a Minister has been charged with the responsibility for any department of government, he shall exercise general direction and control over such department and, subject to such direction and control, the department shall be under supervision of a principal secretary whose office shall be an office in the public service:

Provided that two or more government departments may be placed under the supervision of one principal secretary, and any department of government in which the Minister charged with responsibility is assisted by a Deputy Minister, may be placed under the supervision of two principal secretaries or such greater number of principal secretaries as does not exceed the number of Ministers in such department.

**Part VIII – Repeals and savings****59. Saving of prior and existing laws**

- (1) Nothing in this Order shall affect the validity of any prior law save as hereby amended or repealed.
- (2) All existing laws shall continue to operate with full force and effect but shall be construed with such modifications, qualifications and exceptions as may be necessary to bring them, into conformity with this Order (as may be amended).

**60. Repeal of Order-in-Council No. 23 of 1978**

The Establishment of the Parliament of Swaziland Order No. 23 of 1978 is hereby repealed.

## Schedule 1 (Section 44 and 45)

### Summoning and procedure of joint sitting of Senate and House of Assembly

1.
  - (1) The King shall summon a joint sitting of the Senate and House in the circumstances mentioned in section 44(2) and 45(2).
  - (2) Subject to sub-paragraph (4), the summons of a joint sitting shall be message to the Senate and the House through the President or Speaker, as the case may be, and shall state the business which the sitting is summoned to transact and shall appoint a day for the joint sitting, being not more than fourteen days after the date of the message in the case of a sitting for the purpose mentioned in sub-paragraph (1) and not more than twenty-one days after the message in any other case.
  - (3) The prorogation of Parliament shall not affect any business which a joint sitting of the Senate and the House has, at the date of the prorogation, been summoned to transact in accordance with the provisions of this paragraph or, which is then under consideration by a joint sitting, but, subject to sub-paragraph (4), any business pending for consideration or under consideration by a joint sitting when Parliament is dissolved shall lapse at the date of the dissolution.
  - (4) Section 50 (which relates to the recall of the chambers of Parliament after a dissolution) shall apply for the purpose of authorising the recall of members of those chambers in a joint sitting as it applies for authorising the recall of chambers of Parliament.
2. The members of the Senate and House shall meet together in joint sitting on the day appointed and on succeeding day or days that may be necessary and may deliberate and shall vote together upon the business the joint sitting was summoned to transact.
3. Where a joint sitting of the Senate and the House is summoned for the purpose of deliberating and voting upon a bill in the circumstances mentioned in section 44 the following provisions shall apply—
  - (a) the members of the Senate and the House may deliberate and shall vote together upon the bill as last proposed in the chamber in which it was introduced and upon such admissible amendments to the Bill as may be proposed in the joint sitting;
  - (b) if the bill, with such admissible amendments, if any, as are agreed to by the joint sitting, is affirmed by the joint sitting, the bill as so affirmed shall be deemed to have been duly passed;
  - (c) for the purpose of this paragraph—
    - (i) if the bill has not been passed by the chamber to which it was sent with amendments and returned to the chamber in which it was introduced, there shall be admissible only such amendments, if any, as are made necessary by the delay in the passage of the bill;
    - (ii) if the bill has been passed by the Chamber to which it was sent with amendments and returned to the chamber in which it was introduced, there shall be admissible only such amendments, if any, as are made necessary by the delay in the passage of the bill and such other amendments as are relevant to the matters with respect to which the chambers have not agreed;
    - (iii) the decision of the person presiding in the joint sitting as to the amendments that are admissible under the provisions of this sub-paragraph shall be final.
4.
  - (1) Where a joint sitting of the Senate and the House is summoned for the purpose of considering a bill referred back by the King in accordance with section 45(2) the following provision shall apply—
    - (a) if the whole bill has been referred back, the joint sitting may deliberate and shall vote upon the bill as presented to the King for assent together with any amendment to any provision of the bill which may be proposed in the joint sitting;

- (b) if the bill has been referred back for consideration of provisions of the bill specified by the King, the joint sitting may deliberate and shall vote upon the bill as presented to the King for assent together with any admissible amendment which may be proposed in the joint sitting;
  - (c) if the bill is affirmed with such amendments (if any) as are mentioned in the preceding sub-paragraph and are agreed by the joint sitting, it shall be deemed to be duly passed.
- (2) For the purpose of sub-paragraph (1)(b) there shall be admissible only amendments to the provisions specified by the King and such other amendments as are relevant to the matters contained in the King's message, and the decision of the person presiding at the joint sitting as to the amendments that are admissible shall be final.
- 5. The Speaker of the House and the President of the Senate shall, in that order, preside alternately at joint sittings of the Senate and the House of the business relating to any bill referred to a joint sitting in accordance with section 44(2) and 45(2).
- 6. A joint sitting shall not be disqualified from the transaction of business by reason of any vacancy in the membership of either chamber.
- 7. If objection is taken by a member of either chamber who is present that there are present in such sitting (besides the person presiding) fewer than half members of the Chambers of Parliament and, after such interval as may be prescribed in the rules, of procedure applying to a joint sitting, the member presiding ascertains that there are still fewer than half members of the chambers of Parliament present, he shall thereupon adjourn the joint sitting.
- 8.
  - (1) A question proposed for decision in joint sitting of the Senate and the House shall be determined by a majority of the votes of the members of Parliament present and voting.
  - (2) A President elected from among persons who are Senators or a Speaker elected from among persons who are members of the House (whether or not he is presiding in a joint sitting) shall have a deliberative but not a casting vote.
  - (3) The Attorney-General shall have no vote.
  - (4) If upon any question before a joint sitting the votes of the persons entitled to vote are equally divided the motion shall be lost.
  - (5) If the rules of procedure of a chamber of Parliament make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted, those rules of procedure shall have effect for determining whether a member of such chamber has voted in a joint sitting.
- 9. Subject to this Schedule, the rules of procedure for the time being of the House shall apply, with the necessary modifications, for regulating any proceedings of a joint sitting under this Order which correspond to proceedings of the House.

## Schedule 2

### (Oath or affirmation of allegiances)

I \_\_\_\_\_ do swear (or do solemnly affirm) that I will be faithful and bear true allegiance to King \_\_\_\_\_ his heirs and successors according to law.

So, Help Me God. *(To be omitted in affirmation)*

### (Oath or affirmation for due execution of office)

I \_\_\_\_\_ do swear (or solemnly affirm) that I will well and truly serve King \_\_\_\_\_ his heirs and successors, in the office of \_\_\_\_\_ *(here insert the description of the office)*.

So, Help Me God. *(To be omitted in affirmation)*

**(Judicial oath or affirmation)**

I \_\_\_\_\_ do swear (or solemnly affirm) that I will well and truly serve King \_\_\_\_\_ his heirs and successors, in the office according to the law without fear or favour, affection or ill-will.

So, Help Me God.

*(To be omitted in affirmation)*