



SWAZILAND GOVERNMENT GAZETTE

VOL. XXVIII]

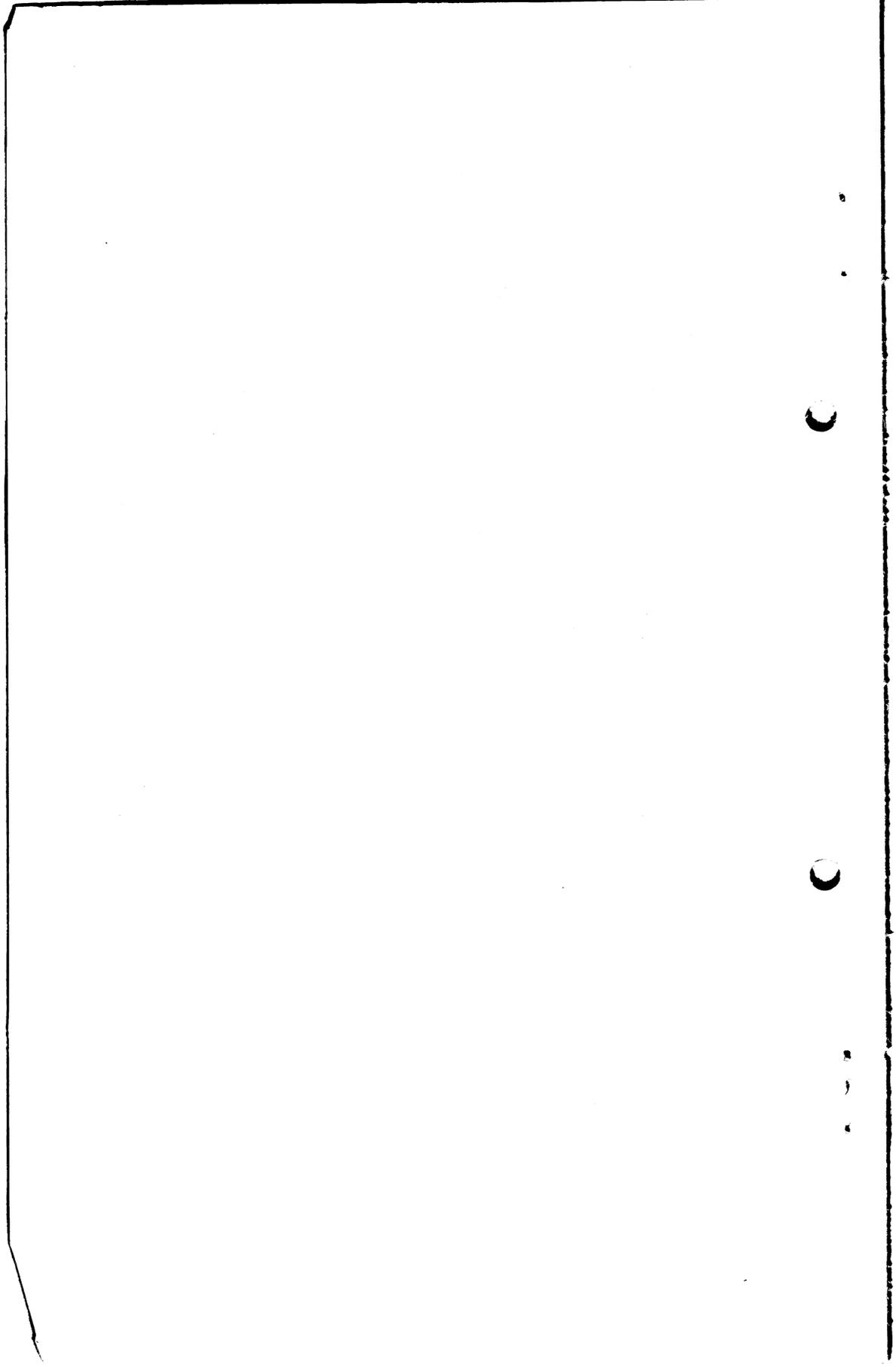
MBABANE, Friday, November 2nd., 1990

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PUBLISHED BY AUTHORITY



GENERAL NOTICE NO. 56 OF 1990

THE WAGES ACT, 1964

(Act No. 16 of 1964)

NOTICE OF INTENTION TO SUBMIT WAGES REGULATION PROPOSALS

(Under Section 11 (2))

In accordance with the above Act, the Manufacture and Sale of Handicraft Industry Wages Council, having made such investigations as it deemed fit, hereby publishes its intention to submit proposals to the Honourable Minister for Labour and Public Service as to the minimum wage and conditions of employment which should be applied to the employees in relation to whom the council operates.

Copies of the proposals may be obtained from the Department of Labour Head Quarters, during normal working hours.

Written representations with regard to the proposals must be sent to the Secretary, Manufacture and Sale of Handicraft Industry Wages Council, P.O. Box 198 Mbabane within thirty (30) days from the date of publication of this notice.

K.J. DLAMINI (MRS)
Secretary - Wages Councils

NOTICE TO SHAREHOLDERS

Notice is hereby given that the annual general meeting of shareholders of Swazispa Holdings Limited will be held at the Royal Swazi Convention Centre, Ezulwini Valley, at 10.30 a.m. on Friday 30 November 1990 for the following purposes:-

1. To receive and consider the financial statements for the year ended 30 June 1990.
2. To appoint auditors to hold office until the next annual general meeting.
3. To approve fees of E6 000 per annum payable to each non-executive director in respect of the year ended 30 June 1990.
4. To transact such other business as may be transacted at an annual general meeting.

Any member entitled to attend and vote is entitled to appoint a proxy or proxies to attend, speak and vote in his stead, and the person so appointed need not be a member of the company.

Proxy forms should reach the registered office of the company not less than 48 hours before the meeting.

By order of the board

J.C. Fraser
Secretary

P.O. Box 331,
Imfumbe Building
MBABANE

B948 2.11.90

NOTICE

TRANSFER OF BUSINESS

Notice is hereby given that the Restaurant business carried on by Tropicale Restaurant, Bar, Take-Away (Proprietary) Limited in Mancishana Street, is to be transferred to Sylvia Hornsby trading as P & S INVESTMENTS who will conduct such business for her own account after the third appearance of this Notice.

Any objections hereto should be addressed to the undersigned before the 14th November, 1990.

CARLSTON AND COMPANY
Attorneys for the Parties
P.O. Box 143,
MANZINI.

B940 3x16.11.90

NOTICE

TRADING LICENCE ORDER NO. 20 OF 1975

Notice is hereby given that an application by Themba Qwabe of P.O. Box 614 Nhlangano for a grant of a Pedlars Licence to operate in Nhlangano under the style "T.N.T. PEDLARS" will be heard in the Regional Administrators Office at Nhlangano on the 28th day of November, 1990 at 10.00 a.m.

Objections thereto should be lodged in writing with the licencing office P.O. Box 8 Nhlangano as well as with the undersigned on or before the 23rd day of November, 1990 not later than 4.00 p.m.

DHLADHLA & PARTNERS
Applicant's Attorneys
P.O. Box 614,
NHLANGANO.

B941 2.11.90

NOTICE

ESTATE LATE: HEZEKIEL THOMO — E.57/88

Notice is hereby given in terms of Section 51 bis of the Administration of Estates Act No. 28 of 1902 that the First and Final Liquidation and Distribution Account will lie open at the Office of the Master of the High Court of Swaziland Mbabane for a period of 21 (Twenty One) days from date of publication of this notice.

Any person objecting to the Account may lodge his objection in writing in duplicate to the Master of the High Court at any time before expiry of the said period.

SCOTT-SMITH NKOSI & PARTNERS
Attorneys for the Executrix Dative
3rd Floor Liphaga Building
P.O. Box 2427,
MANZINI.

B942 2.11.90

NOTICE

Notice is hereby given that we intend applying for a Certified Copy of: Deed of Transfer No. 10/1964 dated 7th February 1964 in favour of Ernest Fanyana Dladla in respect of:

CERTAIN: Portion 72 of Farm No. 2 situate in the District of Hhohho, Swaziland

MEASURING: 8094 (Eight Zero Nine Four) square metres

Any person having objection to the issue of such copy is hereby requested to lodge it in writing with the Registrar of Deeds within Three (3) weeks of the last publication of this Notice.

DATED at MBABANE this 29th day of OCTOBER, 1990.

ROBINSON, BERTRAM & CO.,
Attorneys for/Applicant,
P.O. Box 24,
MBABANE.

B943 2x9.11.90

NOTICE

ESTATE LATE: LINAH SIMELANE E148/89

Debtors and Creditors in the above Estate are hereby called upon to pay their debts or lodge their claims with the undersigned within 30 (thirty) days from the date of publication of this Notice.

MATHSE, MAZIBUKO & COMPANY
Attorneys for Executor
P.O. Box 2014,
MANZINI.

B945 2.11.90

NOTICE

ESTATE LATE: LUCAS NHLEKO E126/89

Debtors and Creditors of the above Estate are hereby called upon to pay their debts or lodge their claims with the undersigned within 30 (thirty) days from date of publication of this Notice.

MATHSE, MAZIBUKO & CO.,
Attorneys for Executrix
P.O. Box 2014,
MANZINI

B946 2.11.90

NOTICE

ESTATE LATE: JOSEPH MJOZI DLAMINI 141/90

Debtors and Creditors of the above Estate are hereby called upon to pay their debts or lodge their claims with the undersigned within 30 (thirty) days from date of publication of this Notice.

MATHSE, MAZIBUKO & CO.,
Attorneys of Executrix
P.O. Box 2014,
MANZINI.

B947 2.11.90

NOTICE

LOST TITLE DEED

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 516/1988 in respect of:

CERTIAN: Lot No. 519 Manzini Extension No. 5 Township, District of Manzini, Swaziland;

MEASURING: 1595 square metres made in favour of Malta Sibongile Sithole, Major Spinster (born on the 6th December 1958) on the 26th October, 1988.

All persons having objections to the issue of the aforesaid copy are hereby requested to lodge same with the Registrar of Deeds for Swaziland at Mbabane within a period of three weeks from date of the first publication of this Notice.

CARLSTON AND COMPANY
Applicant's Attorneys
P.O. Box 143, MANZINI.

B925 2x2.11.90

NOTICE

TRADING LICENCE ORDER NO. 20 OF 1975

Notice is hereby given in terms of the registration of Business and Involency Act that a Grocery Licence carried on at Emvembili area in Ntfontjeni, Pigg's Peak by Magamba Khoza under the style Feeders Grocery will be transferred to Norman Masinga under the style "MVEMBILI GROCERY". After the third publication hereof the hearing will be heard on the 13th November 1990 at the Regional Secretary's offices, Pigg's Peak at 10.00 a.m.

Objections thereto must be lodged in writing with the Regional Secretary's offices, P.O. Box 26, Pigg's Peak as well as with the Applicant's Attorneys on or before the 9th November, 1990.

CARLSTON AND COMPANY
Applicant's Attorneys
New CCU Building
Ngwane/Mahleka Streets
P.O. Box 143, MANZINI.

B920 3x9.11.90

NOTICE

**MATSAPHA MOTORS (PROPRIETARY) LIMITED
(IN LIQUIDATION) MCL/3/86**

Notice is hereby given that the Fifth Liquidation and Distribution account in the above matter will be open for inspection at the office of the Master of the High Court, Mbabane for a period of twenty eight days from date of publication of this notice.

B.J. WATKINS
Liquidator

B909 2x2.11.90

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SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XXVIII]

MBABANE, Friday, November 2nd., 1990

[No. 757

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CORRIGENDUM

THE MOTOR VEHICLE ACCIDENTS BILL, 1990

(Bill No. 3 of 1990)

The Motor Vehicle Accidents Bill, 1990 (Bill No. 3 of 1990) should be corrected as follows:

Under Memorandum of Objects and Reasons *insert* "object" instead of "objet".

In paragraph (b) of the Memorandum of Objects and Reasons, line 3 *delete* the words "intended for use in motor vehicles".

In paragraph (d) of the Memorandum of Objects and Reasons, line 4 *insert* "to" between "subject" and "any".

In the long title, line 2 *delete* the words "intended for use in motor vehicles".

In clause 2(1) in the definition of "fuel" *delete* the words "intended for use in motor vehicles".

In clause 2(1) in the definition of "owner" in paragraph (c), line 2 *insert* "under" instead of "unde".

In clause 6(2), line 1 *insert* "person" instead of "peson".

In clause 10(3), line 3 *insert* "it" instead of "him".

In clause 13(b) should *read*:

"(b) compensation in respect of that loss or damage from his employer if that person drove the vehicle as a servant in the execution of his duty,

unless the MVA fund is unable or refuses to pay the compensation."

In clause 14(1), line 3, *insert* "reasonably" instead of "reasonable".

In clause 15(3), line 3, *insert* "application" instead of "applicaiton".

Clause 15(3) (c) should *read*:

"(c) that the MVA Fund is not prepared to waive its right to invoke the prescription,

the Court may grant leave to the third party to comply with the said provisions and serve process in any action for enforcement of the claim on the MVA Fund in accordance with the provisions of section 16(2) before a date to be determined by the Court."

THE TRADE CONTROL BILL, 1990

(Bill No. 14 of 1990)

(To be presented by the Minister for Commerce, Industry and Tourism)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to repeal and replace the Registration of Business Act, 1939, the Trading Licences Order, 1975 and the Shop Hours Act, 1955 and to make other provisions incidental thereto.

A.F.M. THWALA
Attorney-General

A BILL
entitled

An Act to make provisions for the registration of businesses and for the licencing of trade.

ENACTED by the King and the Parliament of Swaziland.

PART I — PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Trade Control Act, 1990 and shall come into force on a day to be appointed by the Minister by notice in the Gazette.

Application.

2. This Act does not apply to a profession in respect of which the person practicing the profession is registered or enrolled under any law entitling him to practice the profession or engage in any trade activity relating to the profession.

Interpretation.

3. In this Act, except where the context otherwise requires—

“advertisement” means any written, illustrated, visual or other descriptive material or oral statement, communication, representation or reference distributed to members of the public or brought to their notice in any manner and which is intended to —

- (a) promote the sale or leasing of goods or encourage their use or draw attention to their nature, properties, advantages or uses or to the conditions of or prices at which the goods may be purchased, leased or otherwise acquired; or
- (b) promote or encourage the use of any service or draw attention to the nature, qualities, advantages or uses thereof or the manner in or conditions on or prices at which the service is provided;

“business” includes manufacturing, extracting, packaging, assembling, leasing, or producing any goods other than agricultural produce, providing services or facilities as a commercial activity of a continuing nature.

“court” means a magistrate’s court established under the Magistrates’ Court Act, 1938;

“general trading area” means an area declared under section 4;

“goods” includes incorporeal movable and immovable property;

“licence” means a licence granted under this Act;

“licencee” means holder of a licence;

“licencing officer” means a person designated to be a licencing officer under section 11;

“licensing board” means the National Trade Licencing Board or a Regional Trade Licencing Board;

“Minister” means the Minister responsible for Commerce;

“minor trade” means a citizen of Swaziland who trades in goods by –

- (a) conveying them by vehicle or other means; or
- (b) placing them in a place accessible to the public but not from any fixed structure;

“National Board” means the National Trade Licencing Board established under section 16;

“the Order” means the Trading Licences Order, 1975;

“Regional Board” means the Regional Trade Licencing Board established under section 13;

“Region” means the area of a district as defined in the General Administration act, 1905;

“Registrar” means the Registrar of Companies appointed under the Companies Act, 1912 or any other law;

“trade” includes the making, effecting or concluding of any contract, sale, purchase, transaction or payment in respect of goods or services.

PART II — REGISTRATION OF BUSINESS AND GRANTING OF LICENCES

Licensing officer to keep register of business and licences.

4. (1) On or after a date to be determined by the Minister by notice in the Gazette, a person shall not conduct a business unless the business is registered in accordance with this Act.
- (2) A licensing officer shall keep a register of all businesses registered and all licences granted, renewed, amended or transferred in his office including all their particulars.
- (3) Upon payment of the prescribed annual registration fee, the licensing officer shall register a business.
- (4) A person shall not register a business by a name —
- (a) identical with one business in existence is already registered or so nearly resembling that name that it may reasonably mislead the public;
 - (b) suggestive of blasphemy or indecency or which may cause annoyance or offence to the public;
 - (c) which includes the words “Royal” “Crown” “Ngwenyama” “Ndlovukati”, “Government” or any other name which suggests that it enjoys the patronage of the King of Swaziland without the consent of the Minister.
- (5) Notwithstanding subsection (4) a business may be registered by the name it actually bears at the date of commencement of this Act.
- (6) A person who contravenes subsection (1) or (4) commits an offence.

Licensing officer to transmit register to Registrar.

5. Upon registration under section 4, the licensing officer shall transmit a certified copy of the register to the Registrar within 30 days of the registration and subsequently at the end of each succeeding month if there has been any change in his register during that month.

Registrar to keep a register.

6. The Registrar shall —
- (a) keep a register of all information transmitted to him under section 5 in alphabetical index of business name and of persons registered under this Act;
 - (b) publish particulars of the information in the Gazette once every six months.

Inspection of registers.

7. (1) On written application, and on the payment of the prescribed fee, a person may inspect the registers kept under section 4 and 6 during office hours.
- (2) Upon request and payment of the prescribed fee, the Registrar shall furnish a person with a certified copy of a certificate of registration of any business or a certified copy of any extract from the register.

PART III — TRADE AREAS AND LICENCES

Declaration of general trading area.

8. After consulting the Minister responsible for Natural Resources and Land Utilization, and by notice in the Gazette, the Minister may —

- (a) declare any area to be a general trading area for purposes of this act; or
- (b) revoke any declaration made by him under this section.

Declaration of specified goods.

9. (1) By notice in the Gazette, the Ministry may —

- (a) declare any particular goods as goods for trade or not for trade; or
- (b) revoke any declaration made by him under this section.

(2) A person who trades in goods declared not for trade under subsection (1) commits an offence.

Restriction of trade.

10. (1) After a day to be determined by the Minister by notice in the Gazette, a person may not carry on any trade —

- (a) except under the terms of a licence granted or deemed to have been granted under this Act;
- (b) in a place not situate within a general trading area without the written authority of the Minister; but this paragraph shall not apply to a licence granted under the Order.
- (c) in any goods or services other than those to which his licence relates.

(2) Notwithstanding subsection (1), a minor trader shall not require a licence in order to trade so long as he has registered his business under section 4.

(3) A person who contravenes subsection (1) commits an offence.

(4) In addition to any other penalty the court may impose upon conviction under this section, the court may —

- (a) revoke the licence, if the person is a licensee; or
- (b) direct in writing that no licence be granted to the person for a specified period, if the person is not a licensee.

Designation of licensing officers.

11. The Minister may designate a public officer to be a licensing officer in each Region and such other officers to assist the licensing officer as he may consider appropriate.

Grant, renewal, amendment, etc. of licences.

12. (1) Upon the production of the written approval of the Regional or National Board and the payment of the prescribed fee, the licensing officer shall grant, renew, amend or transfer a licence.

(2) The licensing officer shall keep a register of all licences issued under this Act.

PART IV — REGIONAL TRADE LICENSING BOARDS AND THE NATIONAL
TRADE LICENSING BOARD

Establishment and composition of the Regional Trade Licensing Board.

13. (1) The Minister shall establish a Regional Trade Licensing Board for each Region which shall be responsible for the grant, renewal, amendment and transfer of licences in each Region.
- (2) A Regional Board shall consist of —
- (a) a chairman appointed by the Minister;
 - (b) the Regional Secretary;
 - (c) an Extension officer of the Ministry of Commerce, Industry and Tourism;
 - (d) not more than 2 members of the Electoral College who reside in the Region concerned appointed by the Minister.

Functions of a Regional Board.

14. (1) On application by a citizen of Swaziland or company incorporated in Swaziland whose majority shareholding are Swazi citizens, a Regional Board may issue a written approval for the grant, renewal, amendment or transfer of a licence to trade in a general trading area on terms and conditions it deems fit.

Except that where the trade is to be conducted in premises situate on Swazi Nation Land, a Regional Board may only approve the issuing of a licence on the production of the written consent of the Ngwenyama.

- (2) A Regional Board —
- (a) shall give written reasons for its decision, if requested to do so by an applicant or objector;
 - (b) may co-opt temporarily, a person with technical or expert knowledge of a matter to be considered by it, as it may consider necessary.

Procedure of a Regional Board.

15. (1) Three members of the Regional Board including the Chairman shall form a quorum.
- (2) All decisions of the Regional Board shall be by the majority of the members present and where there is an equality of votes, the Chairman shall have a casting vote in addition to his deliberate vote.
- (3) Subject to this Act, the Regional Board may regulate its own procedure.

Establishment and composition of the National Trade Licensing Board.

16. (1) The Minister shall establish a National Trade Licensing Board which shall sit in Mbabane and shall be responsible for the hearing of appeals from the Regional Boards and for the grant, renewal, amendment, and transfer of licences.
- (2) The National Board shall consist of –
- (a) a Chairman who shall be appointed by the Minister;
 - (b) a Representative from Swazi Commercial Amadoda and a representative from Swaziland National Business Council,
 - (c) a Member of Parliament appointed by the Minister;
 - (d) the Principal Secretary from the Ministry responsible for Commerce, or his representative;
 - (e) a representative from Tinkhundla office.

Functions of the National Board.

17. (1) The National Board shall hear appeals against any decision of the Regional Board.
- (2) Upon application by a resident who is not a Swazi citizen or a company not incorporated in Swaziland with the majority shareholders not being Swazi citizens, the National Board may grant, renew, amend or transfer a licence to trade in a general trading area on terms and conditions it deems fit.

Except that where the trade is to be conducted in premises situate on Swazi Nation Land, the National Board may only issue its approval on the production of the written consent of the Ngwenyama.

- (3) The National Board may –
- (a) investigate and consider any complaint made under section 34 and make written recommendations to the Minister;
 - (b) co-opt temporarily, such person having technical or expert knowledge of matters to be considered by it, as it may consider necessary.

Procedure of the National Board.

18. (1) Three members of the National Board including the Chairman shall form a quorum.
- (2) All decisions of the National Board shall be by the majority of the members present and where there is an equality of votes the Chairman shall have a casting vote in addition to his deliberate vote.
- (3) Subject to this Act, the National Board may regulate its own procedure.

Tenure of office.

19. (1) The period of office of a member of a licensing board shall be two years, provided that if the Minister is of the opinion that –
- (a) a member has not performed his duties satisfactorily; or
 - (b) in the public interest the termination of a member's appointment is necessary;
- he may terminate the appointment of the member at any time.
- (2) A member of a licensing board shall cease to be a member if –

- (a) he resigns in writing addressed to the Chairman;
 - (b) by reason of physical or mental infirmity is unable to exercise the functions of his office.
- (3) If for any reason the office of a member of a licensing board becomes vacant, the Minister may appoint a successor who shall remain in office for the unexpired period of office of the member.
- (4) Subject to this Act, a member of a licensing board shall hold office on such terms and conditions as the Minister may determine.

Disqualification from being a member of a Licensing Board.

20. (1) A person who –
- (a) is under the age of 21 years;
 - (b) is an unrehabilitated insolvent;
 - (c) has been convicted of a criminal offence for which he has been sentenced to imprisonment without the option of a fine;

shall not be appointed a member of the board and if already appointed, the Minister shall terminate his appointment immediately.

(2) A member of the Licensing Board shall not take part in the proceedings of the board if he has any direct or indirect interest, whether pecuniary or otherwise, in any matter being considered by the board.

(3) a member of a licensing board related within the first degree of consanguinity or affinity to an applicant for a licence, shall not participate in any proceedings relating to such application.

Sitting of a licensing board.

21. A sitting of a licensing board shall be held in public unless the licensing board on reasonable grounds decides otherwise.

Application for grant, renewal, amendment, etc of licence.

22. (1) A person may apply for a grant, renewal, amendment or transfer of a licence in the prescribed form to –
- (a) the Regional Board for the Region in which he intends to conduct the trade if he is a Swazi citizen or a company incorporated in Swaziland where the majority shareholders are Swazi citizens;
 - (b) the National Board if he is a resident, but not a Swazi citizen or company not incorporated in Swaziland where the majority shareholders are not Swazi citizens or a company incorporated in Swaziland where the majority shareholders are not Swazi citizens.

(2) The licensing board to which an application has been made under subsection (1) shall publish the notice of the application, the time, date and place of the hearing thereof once in the Gazette and in a newspaper circulating in Swaziland at least 21 days prior to the date of the hearing.

(3) A person wishing to oppose an application shall give written notice thereof together with written reasons for the objection to the appropriate licensing board and to the applicant 5 days before the hearing of the application.

(4) In a hearing under section 21 the appropriate licensing board, applicant or objector may call witnesses to give evidence or to produce books or documents at the hearing.

Power of revocation or suspension.

23. (1) Upon good cause shown to its satisfaction and after having given the licensee 14 days written notice to hear his representations, if any, a licensing board may revoke or suspend a licence granted, renewed or transferred by it for such period as it deems fit.

Except that without the written consent of the Ngwenyama, a licensing board may not revoke or suspend a licence entitling the licensee to conduct his trade in Swazi Nation Land.

- (2) A person who conducts trade for which a licence has been revoked or suspended under this section commits an offence.

Appeals against decision of a regional Board.

24. (1) An applicant or objector aggrieved by a decision of a Regional Board may appeal in writing to the National Board and serve a copy of the notice of appeal to the Regional Board and the Respondent within 14 days of the decision of the board.

(2) The notice of appeal shall concisely set out the grounds of appeal and shall be accompanied by the prescribed appeal fee.

(3) A Regional Board shall forward the full record of the proceedings and its reasons for decision to the National Board within 7 days of the lodging of the notice of appeal.

Powers of the National Board on appeal.

25. On appeal, the National Board may –

- (a) confirm, revise or alter the decision of a Regional Board;
- (b) remit the record to the Regional Board for the taking of further evidence;
- (c) direct the parties or any other person to give evidence or produce books, documents or other relevant evidence in order to enable it to make a just decision on the matter.

Appeal from the decision of the National Board.

26. (1) A person aggrieved by the decision of the National Board may appeal in writing to the Minister and serve a copy of the notice of appeal to the National Board and the Respondent within 21 days of the decision of the board.

(2) Within 14 days of the receipt of the notice of appeal, the National Board shall forward the record and written reasons for its decision to the Minister.

(3) The Notice of appeal shall concisely set out the grounds of appeal and shall be accompanied by the prescribed appeal fee.

Power of the minister on appeal.

27. (1) The Minister may –

- (a) confirm, revise or alter the decision of the National Board;
- (b) remit the record to the National Board for the taking of further evidence;
- (c) direct the parties or any other person to give evidence or produce books, documents or other relevant evidence to enable it to make a just decision on the matter.

- (2) The decision of the Minister on appeal shall be final.

Licences.

28. (1) A licence shall specify the premises where the licensee has to conduct his trade, and if a trade is conducted at more than one premises, the licensee shall require a separate licence for each of the premises.
- (2) A licence shall be valid for 12 months from the date it was granted or renewed.
- (3) An amendment or transfer of a licence shall be valid for the duration of the licence from the date it was amended or transferred.

Amendment of licences.

29. (1) On application in the manner prescribed, the appropriate licensing board may amend a licence by substituting another kind of trade for the kind of trade specified in the licence, or other premises for the premises specified in the licence or by adding another kind of trade or in any manner the licensing board deems appropriate.
- (2) An applicant under this section shall pay the appropriate fee prescribed in respect of each trade authorised by the licence.

Transfer of licence.

30. (1) Except as provided in this Act and any law made thereunder a licensee may not transfer his licence to another person.
- (2) On application in the manner prescribed, the appropriate licensing board may transfer a licence to –
- (a) the surviving spouse, the executor of the estate or the heir in the case of the death of the licensee;
 - (b) the lawfully appointed trustee, in the case of the involency of the licensee;
 - (c) the lawfully appointed liquidator, in the case of a company in liquidation;
 - (d) any person lawfully appointed to administer his affairs in any case where the licensee becomes subject to a legal disability; and
 - (e) the purchaser in the case of a sale.
- (3) A licensee who lends, transfers or attempts to lend or transfer his licence to any person, and any person who borrows or makes use of a licence granted to another and not lawfully transferred to him as provided under subsection (2) shall be guilty of an offence.

Display of licences.

31. (1) A licensee shall display a licence or its duplicate and receipt issued by the licensing officer in a prominent position at or close to the main entrance of the premises for which the licence was issued.
- (2) A licensee who fails or neglects to display the licence, or its duplicate or receipt under subsection (1) shall be guilty of an offence.
- (3) Upon application in the prescribed manner and on payment of the prescribed fee, if the licensing officer is satisfied that a licence has been lost, destroyed or defaced, he may issue a duplicate of the licence to the licensee.

Right to enter premises.

32. (1) A police officer of or above the rank of sub-inspector authorised in writing of a licensing officer may at any reasonable time enter and inspect any premises in which he reasonably believes trade is being conducted in order to ascertain whether this Act is being complied with and may in furtherance of this objective require a person appearing to be conducting the trade to give him any information he may reasonably require.

- (2) A person who hinders, obstructs, or fails to give the officer any information required under this section shall be guilty of an offence.

Prohibition of advertisement.

33. (1) By notice in the Gazette, on the recommendation of the National Board, the Minister may prohibit any advertisement or kind of advertisement in relation to trade in regard to -
- (a) the nature, properties, advantages or uses of any goods or services; or
 - (b) the manner in, conditions on or prices at which -
 - (i) goods may be purchased, hired or otherwise acquired:
 - (ii) services may be rendered.
- (2) A person who makes, publishes or displays a prohibited advertisement or causes a prohibited advertisement to be made contrary to subsection (1) commits an offence.

Prohibition of certain trade practices.

34. (1) Following a complaint and upon the recommendation of the National Board, by notice in the Gazette, the Minister may prohibit, restrict or control any business or trade if he is of the opinion that it may directly or indirectly injure or prejudice the interests of the consumer.
- (2) A person who conducts a business or trade in contravention of subsection (1) commits an offence.

PART V — MISCELLANEOUS PROVISIONS

Offences.

35. (1) A licensee shall be liable for any offence committed by his partner, agent or servant unless he can prove to the satisfaction of the court that -
- (a) he has reasonable grounds to believe that this Act was being complied with;
 - (b) he had taken all reasonable steps to prevent the commission of the offence.
- (2) On a charge against a licensee for an offence committed by his partner, agent or servant under this Act, the partner, agent or servant may be jointly charged.
- (3) In an application under this act, a person who makes a false statement, or a statement which he has reason to believe is not true, to an officer acting under this Act commits an offence.
- (4) A person who makes, publishes or displays any advertisement which is false or misleading in a material respect or causes the advertisement to be made, published or displayed commits an offence.

Penalties.

36. A person who is convicted of an offence under –
- (a) Section 4 (1) 10 or 23 shall upon conviction be liable to a fine not exceeding E1600.00 or imprisonment for a period not exceeding 2 years or both;
 - (b) Section 30, 33, or 34 shall upon conviction be liable to a fine not exceeding E1000.00 or imprisonment for a period not exceeding 1 year or both;
 - (c) Section 4(4), 31 or 32 shall upon conviction be liable to a fine not exceeding E200.00 or imprisonment for a period not exceeding 2 months or both;
 - (d) Section 35 shall upon conviction be liable to a fine not exceeding E800.00 or imprisonment for a period not exceeding 9 months or both.

Regulations.

37. (1) The Minister may make regulations –
- (a) prescribing the –
 - (i) forms to be used under this Act;
 - (ii) fees payable under this Act;
 - (iii) days on which or hours within which business or trade may be conducted;
 - (b) exempting any business, profession or trade from registering or requiring a licence to conduct business or trade; and
 - (c) generally to facilitate the better carrying out of the objects of this Act.

Repeals and savings provision.

38. (1) The Trading Licences Order, 1975, the Registration of Business Act 1939 and the Shop Hours Act, 1955 are hereby repealed.
- (2) Notwithstanding subsection (1) on or after the coming into force of this Act, all licences issued under the Order shall continue to be valid until the expiration of the period for which they were granted, renewed, amended or transferred.
- (3) All proceedings and all other matters pending before any officer or authority under the Order, the Registration of Business Act, 1939 and the Shop Hours Act, 1955 shall be dealt with in accordance with the respective laws repealed by subsection (1).

THE METROLOGY BILL, 1990

(Bill No. 15 of 1990)

(To be presented by the Minister for Commerce, Industry and Tourism)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to provide for the administration and control of metrology in trade and to provide for the use of measuring units of the Systems International (SI) and other measuring units and to repeal the Weights and Measures Order, 1975.

A.F.M. THWALA
Attorney—General

A BILL
entitled

An act to provide for the administration and control of metrology in trade, the use of measuring units of the Systems International and certain other units in Swaziland, and other related matters.

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Short title and commencement.

- 1. This Act may be cited as the Metrology Act, 1986 and shall come into operation on a date to be appointed by the Minister by notice in the Gazette.

Interpretation.

- 2. In this Act, unless the context otherwise requires -
 - “Board” means the Metrology Board appointed under section 7;
 - “code of conduct”, in relation to repairers, means such code of conduct as may be prescribed by the controller in terms of section 38;
 - “controller” means the controller of metrology appointed under section 3 (1) or a person designated under section 3 (2) to act for him;
 - “correct”, in relation to a measuring instrument, means correct within the limits or error or sensitivity prescribed by specification;
 - “General Conference of Weights and Measures”, (abbreviated as C.G.P.M. means the Conference General de Poids et Mesures established under the Metre Convention of 1875;
 - “inspector” means a person appointed as an inspector under section 4;
 - “international measuring standard” means any measuring standard recognised as such by the General Conference on Weights and Measures;
 - “SI” (System International) means the metric system of units as defined by the General Conference on Weights and Measures;
 - “measuring instrument” means any appliance, equipment, instrument, apparatus or any combination thereof by means of which a measurement of a physical quantity may be made, and includes any measuring instrument by means of which a grading or counting is effected by the measurement of a physical quantity;
 - “measuring standard” means any national, secondary, tertiary, inspection, working or agents standard referred to in sections 8, 9, 10, 11, 12 and 13, as the case may be;
 - “measuring unit” means any unit described or prescribed in terms of section 49, but excludes any such unit, which, by regulation or specification is exempted from the purposes of this Act;
 - “Minister” means the Minister responsible for matter relating to commerce and trade;
 - “new”, in reference to a measuring instrument, means any measuring instrument which, in terms of this Act should be verified, has not been verified, but excludes any such measuring instrument which was in actual trade use before the date of commencement of this Act;

“official measuring instrument” means any measuring instrument, other than a measuring standard, use by the controller, or any inspector, for the purpose of performing his functions under this Act, but excludes any measuring instrument used in trade and which may be used by the controller, or any inspector, in terms of section 46;

“Principal Secretary” means the Permanent Secretary in the Ministry responsible for matters relating to commerce and trade;

“physical quantity”, in relation to measuring, means any concept capable of being measured and of which the magnitude can be expressed in terms of a measuring unit;

“prepacked goods” means any commodity which is sold according to a physical quantity or by number, and the quantity thereof determined in advance of the time of sale;

“procedure”, in relation to the approval of measuring instruments, means any procedure as may be prescribed by the controller in terms of section 18;

“rejection stamp” means a die impression having a pattern of six pointed star design;

“repair”, in relation to measuring instruments, includes any maintenance or service undertaken by a repairer on any measuring instrument;

“repairer”, means any person registered as a repairer of measuring instruments in terms of section 37;

“sell” includes -

- (a) to offer, advertise, keep, expose, transmit, convey, deliver or prepare for sale;
- (b) to exchange or dispose of for any consideration whatsoever; or
- (c) to transmit, convey or deliver in pursuance of a sale, exchange or disposal;

“specification”, in relation to measuring instruments, means any specification as may be prescribed by the controller in terms of section 30;

“stamp” includes cast, engrave, etch, print or otherwise mark, in such a manner as to be as far as possible indelible;

“trade” includes -

- (a) the making, effecting or concluding of any contract, bargain, sale, purchase or transaction or any payment in connection therewith; or
- (b) any payment for services rendered; or
- (c) the collection of revenue in connection with which any measuring instrument is used;

“unverified”, in relation to a measuring instrument, means not verified or re-verified if such measuring instrument should under this Act have been verified or re-verified;

“vehicle” does not include railway rolling stock;

“verification stamp” means a die impression which contains within a circular border the characters SD and a figure or group of figures signifying the identification number of an inspector or such verification stamp as may be recognised by the controller in terms of section 28;

“verify”, in relation to a measuring instrument, means to stamp, seal or mark with a verification stamp, seal or mark after testing or to certify in writing in accordance with this Act and “re-verify” has a corresponding meaning.

PART II - ADMINISTRATION

Controller of Metrology.

3. Subject to any law governing public service, the Minister may by notice in the Gazette designate an officer to be a Controller of Metrology and such officer shall perform functions assigned to him under this Act.

Designation of inspectors.

4. (1) Subject to any law governing the public service, and subsection (2), the Minister may by notice in the Gazette designate persons as inspectors to perform such functions as may be assigned to inspectors under this Act.

(2) No person shall be designated as an inspector unless he has shown in an examination undergone by him that he has adequate knowledge of this Act and that he -

- (a) has, in accordance with a curriculum laid down from time to time by the controller, passed an examination in subjects specially laid down; and practical work in examining, testing and verifying measuring instruments;
- (b) holds a certificate, issued by the Minister, to the effect that he is qualified to act as inspector; or
- (c) holds a certificate, acceptable to and approved by the Minister, issued by the metrology body of another country, to the effect that he is qualified to act as an inspector.

Prohibition of activities by inspectors.

5. (1) No inspector shall derive any profit from, or be employed in the making, repair, adjusting or selling of measuring instruments:

Provided that the controller may, in writing authorise any inspector to carry out such minor adjustments to measuring instruments as he deems appropriate.

(2) No inspector shall perform any function assigned to him under this Act unless he is authorised in writing by the controller to perform it.

Carrying out of functions by statutory bodies.

6. The Minister may by notice in the Gazette, and subject to such conditions as he deems fit, assign to any statutory body the carrying out of any function specified in this Act.

Metrology Board.

7. (1) The Ministry may by notice in the Gazette appoint a board to be known as the Metrology Board.

(2) The Board shall consist of -

- (a) the controller who shall be Chairman;
- (b) not less than two persons and not more than four persons appointed on account of their scientific, technical, industrial or commercial experience;
- (c) the Principal Secretary;
- (d) a public officer who shall be the Secretary of the Board.

(3) The members of the Board who are not public officers shall receive such remunerations and allowances as the Minister may in consultation with the Minister responsible for Finance determine.

(4) The Board shall regulate its own procedure.

- (5) The functions of the Board shall be -
- (a) to examine or cause to be examined applicants for the post of inspector;
 - (b) to assist and advise the controller in the performance of his functions under this Act;
- (6) Until a Board has been appointed under subsection (1) the controller shall carry out his functions referred to in subsection (5) (b) in consultation with the Principal Secretary.

PART III - MEASURING STANDARDS AND OFFICIAL MEASURING INSTRUMENTS

National standards.

8. (1) The Minister may by notice in the Gazette designate any measuring standard described therein by him as a national measuring standard.
- (2) The Minister shall, if any national measuring standard has been designated under subsection (1), appoint, by notice in the Gazette, such person or body of persons as he may deem fit to -
- (a) keep and maintain all national measuring standards;
 - (b) arrange for the comparison from time to time of such measuring standards with the corresponding international measuring standards and see to the correction thereof, if necessary; and
 - (c) keep and maintain the equipment necessary for bringing national measuring standards into being, and see to the procedures connected therewith.
- (3) The value of a national measuring standard in relation to the corresponding international measuring standard, shall be the value as determined by the person or body of persons appointed under subsection (2).

Secondary standards.

9. (1) The Minister may, by notice in the Gazette, designate any measuring standard described therein by him as a secondary measuring standard.
- (2) Any secondary measuring standard shall be kept in the custody of the controller in accordance with such requirements and conditions as may be prescribed by regulation.
- (3) Subject to subsection (4), any secondary measuring standard shall be verified, before being taken into use and thereafter at intervals not exceeding twelve years, with the corresponding national measuring standards, and shall be certified accordingly.
- (4) The controller shall, in the absence of any appropriate national measuring standard, cause any secondary measuring standard to be verified and certified, before being taken into use and thereafter at intervals not exceeding six years, by any person or body of persons designate by him for such purpose.
- (5) The value of a secondary measuring standard shall be the value as determined by the person or body of persons designated in terms of section 8 (2) or subsection (4), as the case may be.

Tertiary standards.

10. (1) The Minister may, by notice in the Gazette, designate any measuring standards described therein by him as a tertiary measuring standard.
- (2) Any tertiary measuring standard shall be kept in the custody of the controller.
- (3) Subject to subsection (4), any tertiary measuring standard shall be verified and certified accordingly, before being taken into use thereafter at intervals not exceeding six years, with the corresponding secondary measuring standards.
- (4) The controller shall, in the absence of any appropriate secondary measuring standard, cause any tertiary measuring standard to be verified and certified accordingly, before being taken into use and thereafter at intervals not exceeding six years, by any person or body of persons designated by him for such purpose.
- (5) The value of any tertiary standard shall be the value as determined from time to time by the controller, in terms of subsection (4), as the case may be:
Provided that such value shall be determined within such degree of uncertainty as may be prescribed by regulation.

Inspection standards.

11. (1) The controller shall keep in his custody such measuring standards, to be known as "inspection standards", for the purpose of verifying the working standards under section 12.
- (2) Subject to subsection (2), any inspection standard shall be verified and certified accordingly before being taken into use and thereafter at intervals not exceeding two years, with the corresponding tertiary measuring standards.
- (3) The controller shall, in the absence of any appropriate tertiary measuring standard, cause any inspection standard to be verified and certified accordingly, before being taken into use and thereafter at intervals not exceeding two years, by any person or body of persons designated by him for such purpose.
- (4) The value of any inspection standard shall be the value determined by the controller in terms of subsection (2), or by the person or body of persons designated under subsection (3):
Provided that such value shall be determined within such degree of uncertainty as may be prescribed by regulation.

Working standards.

12. (1) The controller shall provide for use by any inspector such standards, to be known as "working standards", as may be required by such inspector for the purpose of performing his functions under this Act.
- (2) Any working standard shall be verified before being taken into use and thereafter at intervals not exceeding twelve months, with the corresponding inspection standards, and shall be certified accordingly by the controller.
- (3) The value of any working standard shall, with due allowance for such limits of error and degree of uncertainty as may be prescribed by regulation, agree with the value signified by its denomination.

Agents standards.

13. (1) Any repairer shall possess or be provided with or have access to such measuring standards, to be known as "agents standards", suitable for the purpose of testing any measuring instrument after any repair thereto by such repairer.

(2) Subject to subsection (3), any agents standard shall be verified before being taken into use and thereafter at intervals not exceeding twelve months by the controller or any inspector designated by him.

(3) The controller may, under such circumstances and conditions as he deems fit, recognise any measuring standard used by a repairer and which has not been verified in terms of subsection (2) as an agents standard.

(4) The value of any agents standard shall, with due allowance for such limits of error and degree of uncertainty as may be prescribed by regulation, agree with the value signified by its denomination.

Official measuring instruments.

14. (1) Every official measuring instrument shall be verified before being taken into use and thereafter at such intervals as may be prescribed in terms of section 15, and a record of every such verification shall be kept by the controller.

(2) Any official measuring instrument shall be correct within such limits of error or sensitivity as may be prescribed by regulation.

Maintenance, custody and testing of measuring standards and instruments.

15. Any measuring standard, other than a national, secondary or tertiary measuring standard, and any official measuring instrument shall be maintain, kept in custody and tested in accordance with such requirements as the controller may, in writing, prescribe from time to time.

PART IV - APPROVAL OF MEASURING INSTRUMENTS

Measuring instruments to be approved.

16. (1) Any new measuring instrument used in trade shall, unless exempted by regulation, be of a class, type or kind approved by the controller.

(2) Subject to sections 18 and 19 (2), any person who wishes to sell or make available any measuring instruments for use in trade and which is, in terms of subsection (1) required to be approved, shall submit a specimen of such measuring instrument to the controller who shall examine it with reference to the material from which, the principle according to which, the manner in which it has been made and such other circumstances as he may deem fit.

(3) Subject to subsection (4) and section 20, the controller shall, if finding a specimen of a measuring instrument submitted to him in terms of subsection (2) to be suitable for use in trade, approve such measuring instrument for such use and issue a certificate to such effect.

(4) The controller may before issuing any certificate in respect of a measuring instrument submitted to him require such alterations to be made to such measuring instrument as he may deem fit.

(5) The controller may by means of a certificate issued in terms of subsection (3) or by means of notice or writing relating to a certificate recognised in terms of section 19 (1), limit the purpose for which any measuring instrument may be used, or impose any limitations or conditions regarding the use, sale or supply, repair approval or subsequent verification or exemption from verification thereof.

(6) The controller shall by notice in the Gazette cause to be made known particulars of any certificate issued in terms of subsection (3) or of any endorsement made in terms of section 17.

(7) The controller may by notice in the Gazette withdraw or amend any certificate issued in terms of subsection (3) or recognised in terms of section 19.

- (8) The controller may in his discretion make any attachment, device or ancillary equipment connected with the use of any approved measuring instrument subject to examination and approval by him.

Modified models of approved measuring instruments.

17. Any person who wishes to sell or make available for use in trade a modified model of an approved measuring instrument shall submit a specimen of such modified model to the controller for examination, and if the controller finds such modified model to be suitable for use in trade he shall endorse the certificate relating to the approved measuring instrument, issued in terms of section 16 (3) to the effect that it also relates to the modified model, and the provisions of section 16 (5) shall *mutatis mutandis* apply.

Procedure and costs.

18. Any person who submits any measuring instruments or modified model of any measuring instrument or any attachment, device or ancillary equipment to the controller for examination in terms of sections 16 (2) and 17 shall do so in the manner specified in such procedure as may be prescribed in writing by the controller from time to time, and shall in addition to paying such costs as the controller may reasonably have incurred in connection with such examination, pay such fees as may be prescribed by the Minister by notice in the Gazette.

Recognition of approval certificate of other countries.

19. (1) Subject to section 20, the controller may, by notice in the Gazette in the case of a particular class or type of measuring instrument, or in writing in the case of a particular measuring instrument, recognise any certificate, including any endorsement thereon or addition thereto or limitation or condition imposed thereby, relating to any measuring instrument, issued by the approval authority of any other country or group of countries.
- (2) The controller may, in recognising any certificate in terms of subsection (1), exempt any person submitting a measuring instrument to which such a certificate relates from the provisions of section 16 (2).
- (3) Subject to the provisions of section 16 (5), any particular class or type of measuring instrument or any particular measuring instrument in respect of which a certificate has been recognised in terms of subsection (1) shall be deemed to be approved in terms of this Act.

Controller may refuse to approve measuring instruments.

20. (1) The controller shall not approve any measuring instrument in terms of section 16 (3), recognise any certificate in terms of section 19 (3), or recognise any certificate in terms of section 19 (1), unless facilities, to the satisfaction of the controller, for the repair of such measuring instrument exist in Swaziland.
- (2) Notwithstanding subsection (1), the controller may, in such circumstances and under such conditions as he may deem fit, approve any measuring instrument in terms of section 16 (3), or recognise any certificate in terms of section 19 (1), in respect of which facilities for the repair thereof do not exist in Swaziland.
- (3) A person who without the written permission of the controller -
- (a) sells or makes available for use in trade any less models of a measuring instrument referred to in section 16 (1) without a certificate in respect thereof having been issued under section 16 (3); or

(b) alters in any manner any model or modified model of a measuring instrument for which a certificate under section 16 (3) has been issued and represents to any person that the altered model is the model for which the certificate has been issued; or

(c) represents to any person that any measuring instruments may be used for a purpose other than that in respect of which a certificate was issued under section 16 (3) or contrary to the terms and conditions of that certificate.

shall be guilty of an offence.

PART V - VERIFICATION AND CONSTRUCTION OF MEASURING INSTRUMENTS

Measuring instruments to be verified.

21. Subject to sections 26 (1), 27 and 28, every measuring used in trade shall, unless exempted by regulation, be verified in accordance with this Act.

Controller may call upon persons to produce measuring instruments.

22. (1) Subject to subsection (2), the controller may by notice in the Gazette call upon any person possessing any measuring instrument which, in terms of this Act, is required to be verified or re-verified, to produce such measuring instrument at the place and time mentioned in the Gazette for the purpose of being inspected, tested, verified or re-verified or rejected.

Provided that there shall be an interval of twenty-one days or more between the date of publication of such notice and the date upon which such measuring instrument has to be produced.

(2) The provisions of subsection (1) shall not apply in respect of any measuring instrument which -

(a) is fixed in such a manner or is of such delicate construction or has such mass that it cannot be conveniently moved; or

(b) is used at any place situated more than 10 km from the place mentioned in the Gazette.

(3) The controller shall take such steps as he may deem expedient to bring any notice published in terms of subsection (1) to the attention of the persons affected by it.

(4) A person who fails to comply with an order made by the controller under this section shall be guilty of an offence.

Inspector may call upon persons to produce measuring instruments.

23. (1) Subject to subsection (2), any inspector may at any reasonable time order any person who used in trade or has in his possession for such use any measuring instrument which, in terms of this Act is required to be verified or re-verified, to produce or otherwise make available to him such measuring instrument at the place where it is so used or at such other place being within 2 km from the place where it is so used or possessed and at such reasonable time as such inspector may appoint, in order to enable such inspector to inspect, test, verify or re-verify or reject such measuring instrument.

(2) No person shall be ordered under subsection (1) to produce or make available any measuring instrument which is fixed in such manner or is of such delicate construction or has such mass that it cannot be conveniently moved at any place other than the place where it is so used or possessed.

(3) A person who fails to comply with an order made by an inspector under this section shall be guilty of an offence.

Verification and re-verification of measuring instruments by inspectors.

24. (1) Subject to subsection (3) and section 29, any inspector shall inspect and test, in the manner prescribed by specification, every measuring instrument which is produced or otherwise made available to him for the purpose of verification or re-verification.
- (2) Subject to subsection (3) and section 29, any inspector shall verify or re-verify, in the manner prescribed by specification, any measuring instrument which he finds to be correct and to comply with the provisions of this Act.
- (3) Any verified measuring instrument of volume made of clear glass and any verified measuring instrument of length need not be re-verified under this section, unless the inspector has reasonable grounds for believing that it has been altered materially since it was verified on unless the original verification stamp has been defaced or has become illegible.

Defacing of verification stamp.

25. (1) Any inspector shall, by means of a rejection stamp, deface the verification stamp on any measuring instrument which he finds to be false, defective or incorrect or not complying with any requirement of this Act, and thereupon such measuring instrument shall be deemed to be unverified or rejected.
- (2) Any inspector who rejects any measuring instrument in terms of subsection (1), shall at the same time issue to the person in charge of such measuring instrument a certificate stating the reason for the rejection.
- (3) Any measuring instrument referred to in subsection (1) which bears no verification stamp shall be marked with a rejection stamp in the most suitable position.
- (4) An inspector who fails to comply with subsections (1) and (2) shall be guilty of an offence.

Continued use of rejected measuring instruments.

26. (1) Any inspector may permit the continued use of any measuring instrument which he has rejected for a period not exceeding twenty-one days from the date upon which such measuring instrument is rejected.
- (2) Any inspector who permits the continued use of a rejected measuring instrument shall state on the certificate issued in terms of subsection (2), the period for which such measuring instrument may be continued to be used.

Exemption from verification or re-verification.

27. (1) The controller may, by notice in the Gazette, and subject to such conditions as he deems fit, exempt any measuring instrument from the provisions of section 21.
- (2) The controller or any inspector authorised by him may grant permission, in writing, and subject to such conditions as he deems fit, for the use in trade of any unverified measuring instrument if, for any reason, it is not possible for any inspector to carry out the testing of such measuring instrument and if the controller or such inspector is satisfied that such measuring instrument is correct and verifiable under this Act.

Recognition of verification stamps of other countries.

28. The controller may, by notice in the Gazette in the case of a particular type or class of measuring instrument, or in writing in the case of a particular measuring instrument, and subject to such conditions as he deems fit, recognise the verification stamp of the metrology service of any other country, and any such measuring instrument bearing a stamp so recognised shall be deemed to be verified in terms of this Act.

Certain measuring instruments not to be verified.

29. No inspector shall verify or re-verify any measuring or container -
- (a) which is not complete or in a clean state;
 - (b) which does not comply with the requirements of this Act; or
 - (c) exempted by regulation from verification or re-verification.

Construction of measuring instruments or containers.

30. (1) Any new measuring instrument or any container shall be constructed and be correct in accordance with such specification as may be prescribed, in writing from time to time, by the controller.
- (2) Any measuring instrument in actual trade use before the date of commencement of this Act shall be correct in accordance with the requirements of any specification prescribed in terms of subsection (1) for an instrument of its class or kind.

PART VI - USE OR POSSESSION AND SUPPLY OF MEASURING INSTRUMENTS AND CONTAINERS*Restriction on and prohibition of manufacture, importation, use or possession of measuring instruments and containers.*

31. (1) Notwithstanding anything in this Act or any other law, the Minister may by notice in the Gazette restrict or prohibit the manufacture, importation use or possession of any measuring instrument or container to such extent as he may deem necessary for the purpose of achieving the object of effecting the application of the measuring units of the SI, and any other measuring units in Swaziland.
- (2) The controller may on such conditions and for such period as he may deem fit, grant permission in writing to any person to manufacture, import use or have in his possession any measuring instrument or container in respect of which a notice has been issued under subsection (1).
- (3) No person shall use in trade or have in his possession for such use any measuring instrument or container -
- (a) not permitted under this Act or which is false, defective or inaccurate;
 - (b) calibrated according to a measuring unit not permitted by this Act;
 - (c) of a denomination not permitted under this Act;
 - (d) which has not been verified or re-verified under this Act, unless exempted from such verification in terms of section 27;
 - (e) which in terms of section 16 should have been approved and has not been so approved;
 - (f) otherwise than in accordance with any limitation or condition imposed by a certificate, notice or writing issued under section 16 (5);
 - (g) which has been rejected in terms of section 25, unless permission for its continued use has been granted in terms of section 26.
- (4) A person who contravenes this section shall be guilty of an offence.

Measuring instruments to be wholly exposed.

32. Any person who, in the presence of a purchaser measures any goods by means of measuring instrument, shall keep such measuring instrument wholly exposed to the view of such purchaser.

Measuring instruments for prepacked goods.

33. Any person who sells any goods prepacked by him, shall have a verified measuring instrument suitable for measuring such goods.

Sale and supply of measuring instruments and containers.

34. (1) Subject to section 27 (2), no person shall sell, supply or install for use in trade any unverified measuring instrument.
- (2) No person shall sell or cause to be sold, or supply or install for use in trade any measuring instrument or container which is false, defective, inaccurate or which does not comply with the requirements of this Act.

Prohibition of acts by persons in respect of measuring instruments.

35. (1) No person shall -
- (a) forge or counterfeit any stamp or die used for the verification of any measuring instrument used in trade;
 - (b) wilfully falsify or tamper with any measuring instrument used in trade.
 - (c) otherwise than in the capacity of an inspector or a repairer obliterate or remove from any measuring instrument used in trade any verification stamp or seal or any part thereof;
 - (d) insert in or attach to any other measuring instrument used in trade any stamp or seal so removed;
 - (e) otherwise than in the capacity of an inspector, place upon any measuring instrument used in trade any stamp or mark purporting to indicate that such measuring instrument has been verified or re-verified;
 - (f) otherwise than in the capacity of a repairer place upon any measuring instrument used in trade any stamp or mark and issue any certificate in respect of such measuring instrument purporting to indicate that such measuring instrument is correct and verifiable.
 - (g) sell, supply or install for use in trade any measuring instrument which has been tampered with or which has been falsified or on which the verification stamp has been defaced in terms of section 25; or
 - (h) wilfully commit or be a part to or aid in or incite any other person to the commission of any fraud or deception in the use of any measuring instrument used in trade.
- (2) A person who contravenes this section shall be guilty of an offence.

PART VII - REPAIR OF MEASURING INSTRUMENTS, REGISTRATION AND CONDUCT OF REPAIRERS*Repair of measuring instruments.*

36. (1) Subject to section 39, no person shall repair any measuring instrument used in trade unless he is registered in terms of section 37 as a repairer.
- (2) Subject to subsection (3) and section 39, any repairer who repairs any measuring instrument used in trade at any place, other than the place where such measuring instrument is so used, shall submit such measuring instrument to an inspector for examination, testing and verification before such measuring instrument is supplied for use in trade again.
- (3) Subject to section 39, any repairer who repairs any measuring instrument used in trade at the place where it is so used shall, unless it is immediately thereafter verified by an inspector, issue to the person in charge of such measuring instrument a certificate stating that such measuring instrument is correct and verifiable under this Act:

Provided that where such repair has been carried out in respect of a rejected measuring instrument, the controller shall be furnished forthwith with a copy of such certificate.

- (4) No person shall use in trade any measuring instrument which has been repaired and has not immediately thereafter been verified, unless a certificate has been issued in terms of subsection (3) or has been exempted in terms of section 39.
- (5) No repairer shall issue a certificate in terms of subsection (3) in respect of a measuring instrument which is not correct or unverifiable under this Act.
- (6) A person who contravenes this section shall be guilty of an offence.

Registration of repairers.

37. (1) Any person who wishes to be registered as a repairer shall apply in writing to the controller for such registration.
- (2) If the controller is satisfied as to the competency of any person who applies to be registered as a repairer, and such other circumstances as he may consider necessary, he shall issue a certificate to the effect to such person:

Provided that the controller may by means of such certificate limit the registration of a repairer to a particular measuring instrument, or to a particular class or kind of measuring instrument or impose such other conditions as he may deem fit.

- (3) The controller shall keep a register for the purpose of recording the name and such other particulars as he may consider necessary, of every person registered as a repairer.
- (4) The controller may, in writing, cancel the registration of any repairer if he is no longer satisfied as to the competency of such repairer or if such repairer has contravened or failed to comply with any provision of this Act.
- (5) The registration of any repairer resident outside Swaziland shall expire on the thirty first day of December each year.
- (6) Any person who wishes to be registered or re-registered as a repairer shall, upon application for such registration or re-registration, pay such fees as may be prescribed by the Minister by notice in the Gazette.

Duties, responsibilities and conduct of repairers.

38. Any person who is registered as a repairer shall perform his duties and exercise his responsibilities, in respect of the repair of measuring instruments used in trade, the issuing of certificates, the care of agents standards, measuring instruments or equipment used in connection with the repair of measuring instruments used in trade, and such other circumstances as the controller may consider necessary, in accordance with such code of conduct as may be prescribed, in writing, by the controller from time to time.

Exemptions.

39. The controller may, in writing, and under such circumstances and conditions as he deems fit, exempt any person or any measuring instrument from the provisions of section 36, 37 and 38.

PART VIII - TRADE DEALINGS AND SALE OF GOODS

Effecting of trade dealings.

40. (1) Any trade dealing effected in terms of a physical quantity shall be effected only in accordance with measuring units permitted under this Act.
- (2) No trade dealings shall be effected by means of any measuring instrument -
- (a) not permitted by this Act;
 - (b) which is false, defective, inaccurate or unverified if it should have been verified under this Act; or
 - (c) which has been rejected, unless permission for the continued use thereof has been granted in terms of section 26.
- (3) Subject to subsection (4), no person shall import into Swaziland any goods, including prepacked goods, the quantity of which is expressed thereon or on any document relating thereto -
- (a) in terms of any unauthorised measuring unit, unless the equivalent thereof is also expressed in terms of a measuring unit permitted under this Act;
 - (b) in terms of any measuring unit which does not comply with the provisions of any regulation prescribed in terms of sections 42 (2) and 43.
- (4) Subsection (3) shall not apply to any goods which the controller has exempted in writing or in respect of which the importer satisfies the controller that they are being imported for manufacturing purposes and not for sale.
- (5) A person who contravenes this section shall be guilty of an offence.

Catalogue to be in authorised manner.

41. (1) Subject to subsection (2), no person shall print, make, circulate or cause to be printed, published, made or circulated, any catalogue unless the quantity of goods referred to therein is expressed in terms of a measuring unit permitted under this Act or as may be prescribed in terms of section 43.
- (2) Subsection (1) shall not apply to -
- (a) any catalogue, emanating from any country outside Swaziland, which clearly shows on its outside cover that reference in such catalogue to prices and to quantities, expressed in unauthorised measuring units or in any other manner, are not applicable to Swaziland; or
 - (b) any catalogue referred to in paragraph (a) which bears a statement on its outside cover showing the equivalent of the measuring units in terms of which or other manner in which the quantity of any goods set forth in such catalogue shall be expressed in terms of this Act.
- (3) In this section "catalogue" means any return, price list, price current or any journal or other paper containing the price list or price current of goods, the quantity of which is stated therein.

Manner of selling goods.

42. (1) Subject to subsection (3), no person shall sell any goods in terms of the physical quantity of mass, unless by net mass.

2) Subject to subsection (3), no person shall sell any prepacked goods unless the quantity thereof is, in the manner and subject to such conditions as may be prescribed by regulation, indicated on the package or on the goods or on any document accompanying such goods.

(3) The Minister may by regulation and subject to such conditions as he may specify therein, exempt any goods from the provisions of subsections (1) and (2).

(4) A person who contravenes this section shall be guilty of an offence.

prescribed physical quantities, prescribed quantities and prescribed dimensions of containers.

43. (1) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the physical quantities in respect of which any goods shall be sold.

(2) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the quantities in respect of which any goods shall be sold.

(3) The Minister may by regulation and subject to such conditions as he may specify therein, prescribe the dimensions in respect of which any container or package shall conform.

Permissible deficiencies.

44. (1) No person shall sell any goods in terms of a physical quantity of which the quantity thereof is deficient of that demanded of, or represented by the seller, unless such deficiency is permissible and in accordance with such conditions as may be prescribed by regulation.

(2) A person who contravenes this section shall be guilty of an offence.

PART IX - INSPECTIONS AND POWERS OF INSPECTORS

Controller to arrange for inspection.

45. The controller shall arrange inspections in order to prevent the use of any measuring instrument or container which falls within the purview of, but which does not comply with the applicable requirements of this Act, and in order to prevent the sale of goods which, in respect of quantity or the manner in which they are offered for sale, do not comply with the requirements of this Act.

Power of inspectors.

46. (1) Any inspector may conduct an investigation to ascertain whether this Act is being or has been complied with, and may for that purpose open packages containing goods prepacked for sale.

(2) Subject to subsection (3), any inspector may at all reasonable times -

(a) enter any place or stop and enter any vehicle

(i) in respect of which he has reason to believe there is on or in it any measuring instrument or container used to intended to be used for trade, or goods for sale;

(ii) in respect of which he has reason to believe that it is connected with any measuring instrument or container used or intended to be used in trade, or the sale of goods;

(b) inspect any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods, or order that for the purposes of inspection such measuring instrument, container, goods or document be placed at his disposal;

- (c) inspect, test or verify, in the manner prescribed by specification any measuring instrument or by means of a verified measuring instrument possession of any person or is found on any premises;
 - (d) inspect, and measure the quantity of goods by means of an official measuring instrument or by means of a verified measuring instrument found at the place where such goods are or on any vehicle on which such goods are carried for sale;
 - (e) seize and retain any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods.
- (3) Any inspector shall furnish to the person in charge of any measuring instrument, container, goods or any document relating to any measuring instrument, container or goods, or to the agent or employee of such person, a receipt of any measuring instrument, container, goods or document seized and retained under subsection (2).

Withdrawal of goods and measuring instruments.

47. (1) Any inspector who finds goods for sale or any measuring instruments or containers used in trade which do not comply with the requirements of this Act, may in writing order the person in whose possession or on whose premises such goods, measuring instruments or container are found, or the agent or employee of such person, to withdraw the whole, or any part of such goods forthwith from sale or to withdraw any such measuring instrument or container from further use or to take such other steps as may be deemed necessary by such inspector for the protection of prospective purchasers or of any other persons concerned.

(2) A person who fails to comply with an order of an inspector under this section shall be guilty of an offence.

Duties of persons using measuring instruments or selling goods.

48. (1) Any person in charge of measuring instruments, containers or goods which are being inspected by any inspector, or any agent or employee of such person, shall at the request of such inspector render such assistance as may be necessary for the purpose of inspecting, testing or verifying such measuring instrument or container or of measuring or counting the quantity of such goods.

(2) Any person using any measuring instrument in trade, which in terms of this Act is required to be verified, shall on demand by any purchaser desiring to ascertain whether such instrument is verified, produce such instrument and, where applicable, any document relating to the verification thereof to such purchaser for his examination.

(3) No person shall hinder or obstruct any inspector in the exercise of his powers under this Act.

(4) A person who hinders or obstructs an inspector in the performance of his duties under this Act or a person who falsely represents himself to be an inspector under this Act shall be guilty of an offence.

PART X - MEASURING UNITS

Measuring units in Swaziland.

49. (1) Subject to subsection (2), the measuring units in Swaziland, the symbols therefor and the rules in connection with the use thereof shall be -
- (a) the units and the appropriate symbols and rules of SI as may be published from time to time by the Minister by notice in the Gazette;
 - (b) such other units, such symbols therefor and such rules in connection with the use therefor as the Minister may from time to time prescribe by notice in the Gazette.
- (2) the Minister may by notice in the Gazette -
- (a) prescribe the manner in which measuring units shall be used;
 - (b) prohibit the expression of any quantity or of the dimensions of any goods in terms of certain measuring units or in any other manner not authorised by this Act;
 - (c) prescribe the permissible equivalent in which a measuring unit may be expressed in terms of another measuring unit of the same physical quantity, or of another physical quantity;
 - (d) prescribe the measuring unit in respect of which any trade dealing shall be effected.

PART XI - BURDEN OF PROOF, PRESUMPTIONS, CONFISCATION, ACTS OR OMISSIONS, OFFENCES AND PENALTIES

Burden of proof and presumptions.

50. (1) If in any prosecution for an offence under this Act it is proved that the accused used in trade or had in his possession for such use, any measuring instrument or container which was not permitted by this Act or which was false, defective or inaccurate or which did not comply with any requirement of this Act, the accused shall be presumed to have known that such measuring instrument or container was not so permitted or was false, defective or inaccurate or did not comply with the requirements of this Act, unless the contrary is proved.
- (2) If in any prosecution for an offence under this Act it is necessary, in order to establish a charge against the accused to prove -
- (a) that the accused did at any time or place use in trade or have in his possession for such use, any measuring instrument or container, and it is proved that the accused carried on trade at such time or place and that such measuring instrument or container was then in his possession, it shall be presumed that the accused at such time and place used in trade or had in possession for such use, such measuring instrument or container, until the contrary is proved; or
 - (b) that the accused did at any time or place sell or have in his possession for sale any goods, and it is proved that at that time and place he carried on trade and that such goods were then in his possession, it shall be presumed that at such time and place he sold or had in his possession for sale, such goods, until the contrary is proved.

Confiscation of measuring instruments or goods.

51. (1) The court convicting any person of an offence under this Act may order the confiscation of any measuring instrument, container, goods or other things in respect of which such offence has been committed.
- (2) Any measuring instrument, container, goods or other confiscated under subsection (1) shall be disposed of in such manner as the Minister may direct.

Acts of omissions by managers, agents or employees.

52. (1) Where any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do so or omit to do, then unless it is proved that -
- (a) in doing or omitting to do such act, such manager, agent or employee was acting without the connivance or permission of such person; and
 - (b) all reasonable steps were taken by such person to prevent any such act or the omission to do any such act; and
 - (c) the act or omission charged was not within the scope of the authority or in the course of the employment of such manager, agent or employee, such person shall be presumed to have done or omitted to do that act, and shall be liable to the penalty imposed under section 53 and the fact that he issued instructions forbidding any such act or omission shall not in itself be sufficient proof that he took all reasonable steps to prevent such act or omission.
- (2) If any manager, agent or employee of any person does or omits to do any act which it would be an offence under this Act for such person to do or omit to do, such manager, agent or employee shall be liable to be convicted and sentenced in respect thereof as if he were such person.

Offences and penalties.

53. Any person who contravenes or fails to comply with section 52, shall be guilty of an offence and liable, on a first conviction, to a fine of one thousand Emalangeni or six months imprisonment or both and on a second or subsequent conviction to a fine of two thousand Emalangeni or twelve months imprisonment or both.

PART XII - GENERAL AND MISCELLANEOUS

Regulations.

54. The Minister may, in addition to such regulations as may be provided for in any other part of this Act, make regulations not inconsistent with this Act -
- (a) providing for the examination of candidates for appointment as inspectors and prescribing the syllabus and conditions in respect of such examinations;
 - (b) regulating the manner in which the controller or inspector shall carry out his duties under this Act;
 - (c) prescribing compulsory use or possession of particular measuring instruments in particular cases;
 - (d) prescribing the forms to be used in connection with this Act;
 - (e) with regard to any other matter which in terms of this Act is required or permitted to be prescribed, and generally for carrying out of the objects and purposes of this Act.

Repeal of Order No. 27 of 1975.

55. (1) Subject to the provisions of subsection (2) the Weights and Measures Order, 1975 in hereby repealed.
- (2) Any regulation, notice, approval, authority, certificate or document issued, made, given or granted, and any other action taken under any provision of any Order repealed by subsection (1), shall be deemed to have been issued, given or granted or taken under the corresponding provisions of this Act.

LEGAL NOTICE NO. 124 OF 1990

THE CENTRAL BANK OF SWAZILAND ORDER, 1974

(Order No. 6 of 1974)

THE CENTRAL BANK OF SWAZILAND STATEMENT OF ASSETS AND
LIABILITIES AS AT 30TH SEPTEMBER, 1990

(Under Section 52)

In exercise of the powers conferred by Section 52 of the Central Bank of Swaziland Order, 1974, the Minister for Finance hereby issues the Statement of Assets and Liabilities in the Schedule to this Notice.

A.M. FAKUDZE
Principal Secretary

THE CENTRAL BANK OF SWAZILAND
Balance Sheet as at 30th September, 1990

Liabilities	Emalangi	Assets	Emalangi
Capital	1,000,000	External Assets	321,546,437
General Reserve	<u>5,681,000</u>	Claims on Government	17,000
	6,681,000		
Allocation of Special Drawing Rights	23,023,666	Claims on Banks	6,367,243
Currency in Circulation	63,595,624		
Domestic Deposits	219,646,990	Claims on Private Sector	9,265,620
External Liabilities	10,981,329	Fixed Assets	5,628,805
Other Liabilities and Provision	22,935,462	Other Assets	4,038,966
		Counterpart Forward Position	13,953,396
Emalangi Payable on Forward Purchases	<u>239,417,679</u>	Emalangi Receivable on Forward Sales	<u>225,464,283</u>
	<u>586,281,750</u>		<u>586,281,750</u>

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LEGAL NOTICE NO. 125 OF 1990

THE RATING ACT, 1967

(Act No. 24 of 1967)

APPOINTMENT OF VALUATION COURT,

(Under Section 17)

In exercise of the powers conferred upon me by Section 17 of the Rating Act, 1967, I hereby appoint the undermentioned persons to constitute the Valuation Court for Manzini in respect of the 1990/91 Financial Year:-

Reuben Zondi	— President
Michael Landmark	— Member
Meshack Masuku	— Member
Wilson Sukumani	— Alternate Member (In place of Michael Landmark)
William Dlamini	— Alternate Member (In place of Meshack Masuku)

Done at Mbabane this 22nd day of October, 1990.

OBED M. DLAMINI
Prime Minister



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