



SWAZILAND GOVERNMENT GAZETTE

VOL. XLVI]

MBABANE, Friday MAY 23rd, 2008

[No. 70

CONTENTS

No.	Page
GENERAL NOTICE	
26. Authorization of Change of Surname Notice, 2008	468
27. Authorization of Change of Surname Notice, 2008	468
28. Authorization of Change of Surname Notice, 2008	469
29. Authorization of Change of Surname Notice, 2008	469
30. Authorization of Change of Surname Notice, 2008	470
ADVERTISEMENTS	471
<hr/> PART A - BILL	
10. The Small Claims Court Bill, 2008	S1
11. The Magistrate's Court (Amendment) Bill, 2008	S18
PART C - LEGAL NOTICE	
99. The Establishment of the Law Reporting Committee for Swaziland Law Reports Notice, 2008	S21
102. Appointment of Acting Principal Secretaries Notice, 2008	S23
103. Appointment of Acting Auditor General Notice, 2008	S24
105. The Scholarship Selection Committee (Amendment) Notice, 2008	S24
107. Rates for Discounts, Rediscounts and Advances Notice, 2008	S25

PUBLISHED BY AUTHORITY

GENERAL NOTICE NO. 26 OF 2008

THE CHANGE OF NAME ACT 1962
(ACT NO. 67 OF 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(UNDER SECTION 3)

In exercise of the powers conferred upon him by Section of the Change of Name Act, 1962 the Minister of Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

JABULANI WELCOME SUPER DLAMINI

a resident of **Mpolonjeni Royal Kraal** in the Hhohho Region to assume the surname **MLANGENI**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
23 April 2008

GENERAL NOTICE NO. 27 OF 2008

THE CHANGE OF NAME ACT 1962
(ACT NO. 67 OF 1962)

AUTHORIZATION OF CHANGE OF NAME NOTICE
(UNDER SECTION 3)

In exercise of the powers conferred upon him by Section of the Change of Name Act, 1962 the Minister of Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

MFANAWANI PATRICK MAPHANGA

a resident of **Nkamanzi Royal Kraal** in the Hhohho Region to assume the surname **MHLABANE**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
23 April 2008

GENERAL NOTICE NO. 28 OF 2008

**THE CHANGE OF NAME ACT 1962
(ACT NO. 67 OF 1962)**

**AUTHORIZATION OF CHANGE OF NAME NOTICE
(UNDER SECTION 3)**

In exercise of the powers conferred upon him by Section of the Change of Name Act, 1962 the Minister of Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

BONGANI BHATHI SIYABONGA MAMBA

a resident of **Evusweni Royal Kraal** in the Shiselweni Region to assume the surname **MALINGA**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
23 April 2008

GENERAL NOTICE NO. 29 OF 2008

**THE CHANGE OF NAME ACT 1962
(ACT NO. 67 OF 1962)**

**AUTHORIZATION OF CHANGE OF NAME NOTICE
(UNDER SECTION 3)**

In exercise of the powers conferred upon him by Section of the Change of Name Act, 1962 the Minister of Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

NJABULO CLEARANCE DUBE

a resident of **Logoba Royal Kraal** in the Manzini Region to assume the surname **NXUMALO**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
23 April 2008

GENERAL NOTICE NO. 30 OF 2008

**THE CHANGE OF NAME ACT 1962
(ACT NO. 67 OF 1962)**

**AUTHORIZATION OF CHANGE OF NAME NOTICE
(UNDER SECTION 3)**

In exercise of the powers conferred upon him by Section of the Change of Name Act, 1962 the Minister of Justice having satisfied himself that the provisions of the said Act have been complied with hereby authorizes:-

DAVID FELOKWAKHE MHLANGA

a resident of **Ejubukweni Royal Kraal** in the Hhohho Region to assume the surname **MWELASE**.

S. M. DLAMINI
PRINCIPAL SECRETARY

Mbabane
23 April 2008

NOTICE

Notice is hereby given that **I, Bongani Mamba Ginindza of Mafutseni - Manzini Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Ginindza** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Manzini Region** and in the government Gazette.

The reason I want to assume the surname **Ginindza** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Ginindza** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Manzini Region**.

P. O. Box 846
Manzini

J806 4x30-05-2008

NOTICE

Notice is hereby given that **I, Themba Michael Matsenjwa of Lubombo Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Khoza** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Lubombo Region** and in the government Gazette.

The reason I want to assume the surname **Khoza** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Khoza** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Lubombo Region**.

P.O. Box 158
Siteki, L300

J853 4x06-06-2008

NOTICE

ESTATE LATE: MLOYENI DLAMINI ESTATE NO. EH67/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SIPHO MAGONGO
P.O. Box 1552
Mbabane

J872 23-05-2008

NOTICE

Notice is hereby given that **I, Maziya Sibusiso Cyprian of Mankayane - Manzini Region** intend to apply to the Honourable Minister of Justice of the Kingdom of Swaziland for authorisation to assume the surname **Msibi** after the fourth publication of this notice, in each of four consecutive weeks in the Times of Swaziland and The Swazi Observer, being the newspapers circulating in the region, where I reside and designated for this purpose by the Regional Secretary for the **Manzini Region** and in the government Gazette.

The reason I want to assume the surname **Msibi** is because it is my natural surname.

Any person or persons likely to object to my assuming the surname **Msibi** should lodge their objections in writing to me at the address given below and with the Regional Secretary for **Manzini Region**.

P. O. Box 123
Mankayane

J887 4x13-06-2008

NOTICE

ESTATE LATE: THEMBA EMMANUEL MAZIYA ESTATE NO. EM524/2006

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

FIKILE E. MDLULI
P.O. Box 5718
Manzini

J871 23-05-2008

NOTICE

ESTATE LATE: GRACE BADZINILE MYBURGH ESTATE NO. EH72/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MARIE JOHNSTON
P.O. Box 1671
Matsapha

J873 23-05-2008

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 51/1973 dated the 14th day of March, 1973 made in favour of: **THE SWAZILAND RAILWAY (INCORPORATED UNDER ACT NO. 15/62** in respect of the undermentioned property:

CERTAIN : Portion 156, a portion of Farm No. 2, District of Hhohho, Swaziland;

MEASURING : 2082 (Two Zero Eight Two) square metres.

Any person having an objection to the issue of such copy by the Registrar is hereby requested to lodge such objection in writing with the Registrar of Deeds, Mbabane, within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 16TH DAY OF MAY, 2008.

M. J. MANZINI & ASSOCIATES
Attorneys for Applicant
3rd Floor, Lilunga House
P. O. Box A204
Swazi Plaza
Mbabane

J870 2x30-05-2008

NOTICE

Notice is hereby given that we intend applying for a certified copy of Deed of Transfer No. 181/1975 dated the 19th day of June, 1975 made in favour of: **THE SWAZILAND RAILWAY (INCORPORATED UNDER ACT NO. 15/62** in respect of the undermentioned property:

CERTAIN : Portion 155, of Farm No, 2 situate in the Mbabane Urban Area, Hhohho, District, Swaziland;

MEASURING : 2493 (Two Four Nine Three) square metres.

Any person having an objection to the issue of such copy by the Registrar is hereby requested to lodge such objection in writing with the Registrar of Deeds, Mbabane, within three (3) weeks of the last publication of this notice.

DATED AT MBABANE ON THIS 16TH DAY OF MAY, 2008.

M. J. MANZINI & ASSOCIATES
Attorneys for Applicant
3rd Floor, Lilunga House
P. O. Box A204
Swazi Plaza
Mbabane

J891 2x30-05-2008

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 4267/2007

In the matter between:

NEDBANK (SWAZILAND) LIMITED

Plaintiff

and

EDWARD AUSTIN MAPHUMZANE DLAMINI

Defendant

NOTICE OF SALE

NOTICE is hereby given that pursuant to a Writ of Execution issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff for the District of Manzini, outside the Regional Administrator's Office, Manzini, at 2:30 p.m. on **FRIDAY** the 20th day of **JUNE, 2008**.

CERTAIN : Lot No. 462 situate in the Matsapha Town, Manzini District, Swaziland;

MEASURING : 7900 (Seven Nine Zero Zero) Square Metres;

RESERVE PRICE : E1,500-000-00 (One Million Five Hundred Thousand Emalangeni);

IMPROVEMENTS : Factory Building measuring 1869m², Staff Utility Area measuring 172m² and a Workshop Shed measuring 176m².

Conditions of Sale are available for inspection at the office of the Sheriff in the High Court building in Mbabane and at the offices of the Regional Administrator, Manzini.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE ON THIS THE 13TH DAY OF MAY, 2008.

LORRAINE HLOPHE
Sheriff of Swaziland
c/o The Registrar of the High Court
Mbabane

J895 23-05-2008

NOTICE

ESTATE LATE: JACOBUS HENDRIK COETZEN MYBURGH
ESTATE NO. EH46/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MARIE JOHNSTON
P.O. Box 1671
Matsapha

J874 23-05-2008

NOTICE

IN THE HIGH COURT OF SWAZILAND

HELD AT MBABANE

CASE NO. 246/2008

In the matter between:

SWAZILAND BUILDING SOCIETY

Plaintiff

And

SIKELELA HARRY NKAMBULE

Defendant

NOTICE OF SALE

NOTICE is hereby given that pursuant to a Writ of Execution issued in the above matter, the undermentioned property will be sold by Public Auction by the Deputy Sheriff for the District of Hhohho, outside the High Court Building, Hospital Hill, Mbabane at 11:30am on Friday the 20th day of JUNE 2008.

CERTAIN : Lot No. 1576 Mbabane Extension No. 12, situate in the urban area of Mbabane, District of Hhohho Swaziland.

MEASURING : 2069 (Two Zero Six Nine) Square Metres;

RESERVE PRICE : E632,000.00 (Six Hundred and Thirty Two Thousand Emalangeni).

IMPROVEMENTS :

FLOOR	PLINTH AREA	NUMBER AND USE OF ROOMS
Ground	167.45m ²	5 bedrooms, 1 lounge / dining, kitchen, laundry, 1 pantry, ensuite, bathroom and 1 toilet
Servants Quarters	28.38m ²	
Garage	40.26m ²	

Conditions of Sale are available for inspection at the office of the Sheriff in the High Court building in Mbabane and at the offices of the Regional Administrator, Hhohho.

The Society may its sole discretion lend 90% (Ninety per centum) to suitable borrowers and interested parties are advised to seek advise from the Society in this regard prior to the date of the sale.

Further particulars may be obtained from the undersigned.

DATED AT MBABANE ON THIS THE 13TH DAY OF MAY, 2008.

LORRAINE HLOPHE

Sheriff of Swaziland

c/o The Registrar of the High Court
Mbabane

NOTICE

ESTATE LATE: ISABELLA MAUD OSWIN ESTATE NO. E4290/1984

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

ROBINSON BERTRAM
Attorneys for Executors / Testamentary
Executrix / Dative
First Floor, Ingcongwane Building
Ngwamile Street
P.O. Box 24
Mbabane

J897 23-05-2008

NOTICE

ESTATE LATE: MDUDUZI VICTOR MACWELE ESTATE NO. ES306/2005

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

BHEKINDLELA MACWELE
P.O. Box 1213
Manzini

J875 23-05-2008

NOTICE

ESTATE LATE: JABU JABULILE MATSEBULA ESTATE NO. EM80/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

LUNGILE PORTIA MATSEBULA
P.O. Box 29
Lobamba

J879 23-05-2008

NOTICE

ESTATE LATE: THAMSANQA FEDERICK V. MTSHALI ESTATE NO. EH172/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

BEATRICE NHLABATSI
P.O. Box 4535
Mbabane

J880 23-05-2008

NOTICE

ESTATE LATE: MASOKA MICA NKAMBULE ESTATE NO. EH157/2003

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

NCAMSILE NKAMBULE
P.O. Box A636
Swazi Plaza

J881 23-05-2008

NOTICE

ESTATE LATE: BUHLEBUYENGETWA A. MAGAGULA ESTATE NO. EP89/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

JABULILE PHUMAPHI MAGAGULA
P.O. Box 195
Buhleni

J882 23-05-2008

NOTICE

ESTATE LATE: JACOB GONYWANE LOKOTHWAYO ESTATE NO. EM172/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

ANDRISON M. LOKOTHWAYO
P.O. Box 475
Mbabane

J883 23-05-2008

NOTICE

ESTATE LATE: BHEKI SIKELELA MASILELA ESTATE NO. EL8/2008

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

NOKUTHULA NOYEDWA DLAMINI
P.O. Box 179
Lomahasha

J888 23-05-2008

NOTICE

ESTATE LATE: BEAUTY LOMKHOLO MATSEBULA ESTATE NO. ES27/2008

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

LINDIWE O. B. MSIBI
P.O. Box 2399
Mbabane

J889 23-05-2008

NOTICE

ESTATE LATE: JAMES BOB PALMER ESTATE NO. EP16/2008

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

MARY PALMER
P.O. Box 365
Piggs Peak

J893 23-05-2008

NOTICE

ESTATE LATE: NKOSINATHI E. DLAMINI ESTATE NO. EM33/2008

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

LINDIWE PATIENCE DLAMINI
P.O. Box 5126
Manzini

J894 23-05-2008

NOTICE

ESTATE LATE: DANIEL SONGELWAKO KUNENE ESTATE NO. EP12/2008

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

LILLIAN LAHLIWE KUNENE
P.O. Box 25
Mhlume

J898 23-05-2008

NOTICE

ESTATE LATE: MILTON VIKINDUKU TSABEDZE ESTATE NO. EL176/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BEAUTY LOMHLOLO TSABEDZE
P.O. Box 18
Mpaka

J876 23-05-2008

NOTICE

**ESTATE LATE: SENELISIWE THALITHA TENINA MBHAMALI
ESTATE NO. ES3/2008**

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MVENI SOLOMON MBHAMALI
P.O. Box 2025
Mbabane

J877 23-05-2008

NOTICE

ESTATE LATE: VUMA MHLONISHWA DLAMINI ESTATE NO. EM31/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

LUNGILE PRECIOUS NGWENYA
P.O. Box 267
Lobamba

J878 23-05-2008

NOTICE

ESTATE LATE: VUSI MZIMBA DLAMINI ESTATE NO. ES77/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

ZANELE LIVONIA DLAMINI
P.O. Box 310
Hlathikhulu

J884 23-05-2008

NOTICE

ESTATE LATE: MADUNA ENOCK DLAMINI ESTATE NO. EH296/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

GOODNESS NOMSA DLAMINI
P.O. Box 1384
Manzini

J885 23-05-2008

NOTICE

ESTATE LATE: ZACHEUS NKENGLE ZWANE ESTATE NO. EM30/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NTOMBI MARTHA ZWANE
P.O. Box 6303
Manzini

J886 23-05-2008

NOTICE

**ESTATE LATE: THANDIE SIMELANE NEE MATSENJWA
ESTATE NO. ES74/2008**

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

KENNETH DUMSANI SIMELANE
P.O. Box 39
Mhlosheni

J890 23-05-2008

NOTICE

ESTATE LATE: MOSES MABHENYANE DLAMINI ESTATE NO. ES72/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

GWISHI SARAH DLAMINI &
DUMILE ANGEL DLAMINI
P.O. Box 264
Hlathikhulu

J892 23-05-2008

NOTICE

ESTATE LATE: JOSEPH VELAZITHA MAHLAMBI ESTATE NO. ES70/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

BONGIWE GOODMAN MAHLAMBI
P.O. Box 137
Vuvulane

J900 23-05-2008

NOTICE

ESTATE LATE: CLIFFORD MANANA ESTATE NO. ES24/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

THEMBA MUSA MANANA
P.O. Box 179
Sidvokodvo

J901 23-05-2008

NOTICE

ESTATE LATE: NTOMBIFUTHI JOYCE ZWANE ESTATE NO. EH38/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

DANICIA NOMVELO PHIRI
P.O. Box 1749
Manzini

J903 23-05-2008

NOTICE

ESTATE LATE: SIPHILA MAPHINDELA NHLEKO ESTATE NO. ES59/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

SIBONGILE MSOBIYANE NHLEKO
P.O. Box 1519
Nhlangano

J905 23-05-2008

NOTICE

ESTATE LATE: DAVID VINI MATSEBULA ESTATE NO. ES238/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

CEBSILE HLOPHE
P.O. Box 1593
Nhlangano

J902 23-05-2008

NOTICE

ESTATE LATE: PHILEMON NGIYANE NXUMALO ESTATE NO. E. S. 195/99

Notice is hereby given that the First and Final Liquidation Account will lie open for inspection at the offices of the Master of the High Court of Swaziland at Hlatikulu for a period of twenty one (21) days from the date of appearance of this Notice.

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

S. M. KUBHEKA AND ASSOCIATES
2nd Floor, Lihaga Building
Nkoseluhlaza Street
P.O. Box 1301
Manzini

J899 23-05-2008

NOTICE

ESTATE LATE: MAJAHA MAZIYA ESTATE NO. EP103/2007

Notice is hereby given in terms of Section 51 (2) of the Administration of Estates Act No. 28/1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane Miller's Mansion 1st Floor for a period of Twenty One (21) days from the date of publication of this notice.

Any person objecting to the account may lodge his or her objection in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

SIBONGILE MAZIYA
P.O. Box 430
Piggs Peak

J906 23-05-2008

NOTICE

ESTATE LATE: MICHAEL HHUDLUZA NXUMALO ESTATE NO. EH295/2007

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

NJABULO NHLANHLA NXUMALO
P.O. Box 79
Tshaneni

J907 23-05-2008

NOTICE

ESTATE LATE: ABNER VUSIE KUNENE ESTATE NO. EM52/2008

Debtors and Creditors in the above mentioned estate are hereby asked to lodge their claims and pay their debts with the undersigned within thirty (30) days after the date of publication of this Notice.

MILDRED SIPHIWE KUNENE
P.O. Box 1446
Manzini

J904 23-05-2008

NOTICE

**ESTATE LATE: BERNARD JOHN GOWRAN FITZPATRICK
ESTATE NO. EH240/2007**

Notice is hereby given in terms of Section 52 bis of the Administration of Estates Act No. 28 of 1902 that the First and Final Liquidation and Distribution Account will lie open for inspection at the Office of the Master of the High Court of Swaziland, Mbabane for a period of twenty one (21) days from the date of publication of this notice.

Any person objecting to the Account may lodge his/her objection, in writing with the executor and with the Master of the High Court at any time before the expiry of the said period.

MR GRANT ANDREW NORRIS
First National Bank
P.O. Box 261
Eveni

J908 23-05-2008

SUPPLEMENT TO THE SWAZILAND GOVERNMENT GAZETTE

VOL. XLVI]

MBABANE, Friday, MAY 23rd 2008

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CONTENTS

No.	Page
PART A - BILL	
10. The Small Claims Court Bill, 2008	S1
11. The Magistrate's Court (Amendment) Bill, 2008	S18
PART C - LEGAL NOTICE	
99. The Establishment of the Law Reporting Committee for Swaziland Law Reports Notice, 2008	S21
102. Appointment of Acting Principal Secretaries Notice, 2008	S23
103. Appointment of Acting Auditor General Notice, 2008	S24
105. The Scholarship Selection Committee (Amendment) Notice, 2008	S24
107. Rates for Discounts, Rediscounts and Advances Notice, 2008	S25

PUBLISHED BY AUTHORITY

PART A

S1

THE SMALL CLAIMS COURT Bill, 2008 (Bill NO.10 OF 2008)

(To be presented by the Minister for Justice and Constitutional Affairs)

MEMORANDUM OF OBJECTS AND REASONS

The objects of this Bill is to-

- (a) provide for the establishment of small claims courts to adjudicate on small claims, more particularly for the small and medium entrepreneur who may not afford legal services or fees by reason of the size of the claim or where the business cannot viably support the payment of such legal fees;
- (b) enable the small claims courts to adjudicate on claims initiated by private individuals, that is to say, claims initiated by natural persons against natural or juristic persons;
- (c) provide for the speedy recovery of such small claims which if not promptly recovered leads to the collapse of such small and medium enterprises;
- (d) provide for the circumvention of the lengthy and sophisticated process of the ordinary courts thus making law more accessible to the non-sophisticated person;
- (e) establish and set the jurisdiction of the small claims courts at amounts not exceeding ten thousand Emalangeni (E10,000);
- (f) provide for the appointment of officers for the small claims courts; and
- (g) provide for other incidental matter

J. M. DLAMINI
ATTORNEY GENERAL

A BILL entitled

An Act to establish the Small Claims Court for the adjudication of small claims and provide for incidental matters.

Enacted the King and the Parliament of Swaziland.

Arrangement of sections

PART I **PRILIMINARY PROVISIONS**

1. Short title and commencement
2. Interpretations

PART II

ESTABLISHMENT AND NATURE OF SMALL CLAIMS COURT

3. Establishment of court
4. Nature of courts and force of process
5. Courts open to public
6. Language medium at proceedings
7. Inspection of documents by public and custody thereof
8. Parties who may appear in court

PART III

PRESIDING OFFICERS AND OFFICERS OF THE COURT

9. Presiding officers
10. Appointment of commissioners
11. Procedure in case of absence or incapacity of commissioners
12. Officers of court

PART III

JURISDICTION

13. Area of jurisdiction
14. Transfer of actions
15. Jurisdiction in respect of persons
16. Jurisdictions in respect of actions
17. Matters beyond jurisdiction
18. Incidental jurisdiction
19. Abandonment of part of claim
20. Deduction of admitted debt
21. Splitting of claims disallowed
22. Cumulative jurisdiction
23. No jurisdiction by virtue of consent of parties
24. Cessation of action
25. Defendants subject to jurisdiction of courts

PART IV
RULES OF COURT

26. Power of Minister to make rules and regulations

PART V
PROCEDURE AND EVIDENCE

27. Procedure
28. Evidence
29. Evidence to be given under oath
30. Institutions of actions
31. Withdrawal of claims
32. Joinder of plaintiffs
33. Joinder of defendants
34. Amendment of documents

PART VI
JUDGMENT AND COSTS

35. Judgment
36. Judgment by default
37. Rescission of certain judgments
38. Costs

PART VII
EXECUTION

39. Money to be paid direct to judgment creditor
40. Inquiry into financial position
41. Offer by judgment debtor after judgment
42. Manner of execution
43. Property exempt from execution
44. Notice of change of address by judgment debtor

PART VIII
REVIEW

45. Judgment or order final
46. Grounds of review

**PART IX
OFFENCES**

47. Offences relating execution

48. Contempt of court

**PART X
GENERAL PROVISIONS**

49. Pending proceedings

50. Minister to make regulations Schedule

**PART I
PRELIMINARY PROVISIONS**

Short title and commencement

1. (1) This Act may be cited as the Small Claims Courts Act, 2008 and shall come into operation on a date to be determined by the Minister and published in the Government Gazette.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

Interpretations

2. In this Act, unless the context otherwise requires-

"commissioner" means a commissioner for Small Claims Court appointed under section 10;

"court" means a court established under section 3;

"Minister" means the Minister responsible for Justice;

"prescribed" means prescribed under section 26;

"record" means to take down in writing or in shorthand;

"regulations" means the regulations made under section 26 and section 50;

"the rules" means the rules made under section 26;

"this Act" includes the rules and regulations.

**PART II
ESTABLISHMENT AND NATURE OF SMALL CLAIMS COURTS**

Establishment of court

3. (1) The Minister, after consultation with the Chief Justice, may by notice published in the Gazette-

- (a) establish for any area consisting of one or more Regions of the regions of the country or a part of a Region a court to be known as a Small Claims Court for

the adjudication of claims in terms of this Act;

- (b) determine the seat of such the court;
- (c) determine one or more places in the area concerned for the holding of sessions of such a court.
- (d) alter the area for which such a court has been established by including therein or excising there from any Region or Regions or part thereof;
- (e) abolish a court established in terms of this section; and
- (f) amend or withdraw any notice issued in terms of this section.

(2) Where the Minister, deems it necessary and expedient, the Minister or a magistrate of a Region if so authorized by the Minister and the Chief Justice, may, notwithstanding the provisions of subsection (1) -

- (a) establish for a Region or part of that Region a court for the adjudication of any particular claim or claims in terms of this Act; and
- (b) determine the place in the Region for the holding of sessions of such a court.

Nature of courts and force of process

4. (1) Subject to the provisions of subsection (2), the court shall not be a court of record.

(2) The presiding officer shall record or cause to be recorded a brief statement of the proceedings and the verdict, judgment or order of the court and shall sign it.

(3) The process of the court shall be served or executed in the prescribed manner.

(4) Every process of the court shall be of force throughout the country.

Courts open to public

5. (1) Subject to the provisions of subsection (2), the proceedings of the court shall take place in open court.

(2) A court may in the interest of the administration of justice or of good order or of public morals or at the request of the parties to the proceedings for reasons considered sufficient by the court, order that the proceedings shall be held behind closed doors or that specified persons shall not be present at those proceedings.

(3) If any person present at the proceedings of a court disturbs the order of the court, the court may order that such person be removed and or detained in custody until the court adjourns, or the court may, if in its opinion order cannot be otherwise maintained, order that the court room be cleared and that the public shall not be present at the proceedings.

Language medium at proceedings

6. (1) Subject to subsection (2) either of the official languages of the country may be used at any stage of the proceedings of the court.

(2) A commissioner shall record the proceedings of the Court in English unless it is provided otherwise by another applicable law.

(3) If evidence is given in a language with which one of the parties is in the opinion of the court not sufficiently conversant, a competent interpreter may be called by the court to interpret that evidence into a language with which that party appears to be sufficiently conversant, irrespective of whether the language in which the evidence is given is one of the official languages.

Inspection of documents by public and custody of those documents

7. (1) Subject to the provisions of the rules, the documents of a court shall be available for inspection by the public under the supervision of the clerk of the court at the prescribed times and upon payment of the prescribed fees, and those documents shall be preserved at the seat of the magistracy of the Region in which the seat of that court is situated or some other place as the presiding officer may direct.

(2) The documents mentioned in subsection (1) shall be kept for such period as the Minister or Attorney General may, in writing or by notice published in the Gazette, determine.

(3) The Attorney General may order that after the expiry of the period contemplated in subsection (2) the documents so preserved shall be removed to a specified place of custody or be destroyed or otherwise disposed of.

Parties who may appear in court

8. (1) Only a natural person may institute an action in a court and, subject to the provisions of section 15 (2), a juristic person may become a party to an action in a court only as defendant.

(2) A party to an action shall appear in person before the court and, subject to the provisions of subsection (3), shall not be represented by any person during the proceedings.

(3) A juristic person shall be represented in a court by its duly nominated director or other officer.

PART III

PRESIDING OFFICERS AND OFFICERS OF THE COURT

Presiding officers

9. The officer presiding at a court shall be known as a Commissioner for Small Claims Court and shall be appointed under section 10.

Appointment of commissioners

10. (1) (a) Subject to the provisions of this section the Minister in consultation with the Chief Justice, may appoint one or more commissioners for any court under this Act.

(b) An officer in the employ of the Government with the exception of the Law Officer shall not be appointed as a commissioner.

(2) A magistrate who establishes a court in terms of section 3 (2), may, subject to the provisions of this section, appoint a commissioner for such a court.

(3) A person shall not be appointed as a commissioner unless that person is qualified-

- (a) to be or is admitted as an attorney of the High Court in terms of the Legal Practitioners Act, 1964;
- (b) as an admitted advocate of the High Court in terms of the Legal Practitioners Act, 1964
- (c) to be appointed, at least, as a senior magistrate; or
- (d) as a law lecturer,

and for an uninterrupted period of at least five years practised as an advocate or attorney or occupied the post of senior magistrate, or for that period was involved in the teaching of law at a higher level in a recognised university, and is a fit and proper person in the opinion of the Minister to be appointed as a commissioner.

- (4) A commissioner shall hold office during the pleasure of the Minister.
- (5) A commissioner may resign by notice in writing to the Minister.
- (6) The Minister may at any time withdraw the appointment of a commissioner if in the opinion of the Minister there is sufficient reason for doing so.
- (7) A person appointed under subsection (1) or subsection (2) shall, before commencing with the functions of a commissioner, take an oath or make an affirmation subscribed by that person in the form set out in the First Schedule.
- (8) The an oath or affirmation referred to in subsection (2) shall be taken or made in open court before a Commissioner of Oaths and the Commissioner of Oaths shall at the foot thereof make a note to the effect that it was taken or made, before that commissioner of Oaths, and of the date on which it was so taken or made, and append a signature thereto.

Procedure in case of absence or incapacity of commissioners

11. Where by reason of absence or incapacity a commissioner is unable to complete the hearing of an action, that hearing shall be commenced afresh before another commissioner.

Officers of court

12. (1) The Civil Service Commission, or such other authority prescribed by law, shall appoint clerks and assistant clerks of the court, interpreters and 1 legal assistants for any court as may be necessary for the performance of the prescribed functions.

(2) The messenger of the court appointed under section 10 of the Magistrates' Courts Act, 1938, for the magistrate's court exercising jurisdiction over the Small Claims Court, shall act as messenger of the Small Claims Court

(3) The Government, a clerk of the court, an assistant clerk of the court or a legal assistant shall not be liable for any damage or loss resulting from assistance given in good faith by that clerk of the court, assistant clerk of the court or legal assistant to any party or prospective party to an action before a court or to the enforcement of a judgment or order in terms of section 42 in the form of legal advice or the compilation or preparation of a summons, statement or other document.

CHAPTER III JURISDICTION

Area of jurisdiction

13. The area of jurisdiction of a court under this Act shall be the area or region for which it is established.

Transfer of actions

14. An action may, with the consent of all the parties, or upon the application of one of the parties who satisfies the court that the hearing of the action in that court may result in undue expense or inconvenience to one or such party, be transferred by the court to any other court under this Act, and in such a case the latter court shall, notwithstanding anything to the contrary in this Act contained, have jurisdiction to hear that action.

Jurisdiction in respect of persons

15. (1) Subject to the provisions of subsection (2), a court shall have jurisdiction in respect of-
- (a) any person who resides, carries on business or is employed within the area of jurisdiction of the court;
 - (b) any partnership, as defendant, which has business premises situated or any member of the partnership who resides within the area of jurisdiction of the court;
 - (c) any person in respect of any proceedings incidental to any action instituted in that court by such person;
 - (d) any person, whether or not that person resides, carries on business or is employed within the area of jurisdiction of the court, if the cause of action arose wholly within that area;
 - (e) any defendant, whether in convention or reconvention, who appears and takes no objection to the jurisdiction of the court;
 - (f) any person who owns immovable property within the area of jurisdiction of the court in actions in respect of such property or a mortgage bond over that property.
- (2) An action shall not be instituted against the Government in a court.
- (3) A court shall not have jurisdiction in respect of any claim or counterclaim based in whole or in part upon a cession or assignment of rights.

Jurisdiction in respect of causes of action

16. Subject to the provisions of this Act, a court shall have jurisdiction in respect of causes of action in-
- (a) actions for the delivery or transfer of any property, movable or immovable, not exceeding in value the sum of ten thousand Emalangeni or such an amount as may be presided by the Minister from time to time by notice in the Gazette after consultation with the Attorney General and the Chief Justice;
 - (b) subject to paragraph (c), actions for ejectment against the occupier of any premises or land within the area of jurisdiction of the court;

- (c) actions for ejectment where the right of occupation of the premises or land is in dispute between the parties, that right does not exceed in clear value to the occupier the sum of ten thousand Emalangeni or such an amount as may be determined by the Minister from time to time as provided in paragraph (a);
- (d) actions based on or arising out of a liquid document or a mortgage bond, where the claim does not exceed the sum of ten thousand Emalangeni or such an amount as may be presented by the Minister from time to time as provided in paragraph (a);
- (e) actions based on or arising out of a credit agreement, sales, purchases, loans, recovery of monies paid over or delivered and such similar debts where the claim or the value of the property in dispute does not exceed the sum of ten thousand Emalangeni or such an amount as may be prescribed by the Minister from time to time as provided in paragraph (a);
- (f) actions other than those already mentioned in this section, where the claim or the value of the matter in dispute does not exceed the sum of ten thousand Emalangeni or such an amount as may be prescribed by the Minister from time to time as provided in paragraph (a);
- (g) actions for counterclaims not exceeding the sum of ten thousand Emalangeni or such an amount as may be prescribed by the Minister from time to time as provided in paragraph (a) in respect of any cause of action mentioned in paragraph (a) to (e).

Matters beyond jurisdiction

17. A court shall have no jurisdiction in matters-

- (a) in which the dissolution of any marriage is sought;
- (b) concerning the validity or interpretation of a will or other testamentary document;
- (c) concerning the status of a person in respect of the mental stability or capacity of the person;
- (d) in which is sought specific performance without an alternative claim for payment of damages, except in the case of-
 - (i) the rendering of an account in respect of which the claim does not exceed the sum of ten thousand Emalangeni or such an amount as may be determined by the Minister from time to time by notice in the Gazette under section 16 (a);
 - (ii) the delivery or transfer of any property, movable or immovable, not exceeding in value the sum of ten thousand Emalangeni or such an amount as may be determined by the Minister from time to time by notice in the Gazette for the purposes of this section;
- (e) in which is sought a decree of perpetual silence;
- (f) in which is sought damages in respect of -
 - (i) defamation;
 - (ii) malicious prosecution;

- (iii) wrongful imprisonment;
- (iv) wrongful arrest;
- (v) seduction;
- (vi) breach of promise to marry;
- (g) in which an interdict is sought.

Incidental jurisdiction

18. (1) In an action in which the sum claimed does not exceed the jurisdiction of the court and is the balance of an account, the court may enquire into and hear evidence upon the whole account, even though that account relates to items and transactions exceeding the jurisdiction of the court.

(2) Where the amount claimed or other relief sought does not exceed the jurisdiction of the court, the court shall not be deprived of that jurisdiction merely because it is necessary for the court, in order to arrive at a decision, to give a finding upon a matter beyond its jurisdiction.

(3) In determining whether a claim falls within the jurisdiction of a court, a claim for interest on a principal sum claimed or for costs or for general or alternative relief shall not be taken into account.

Abandonment of part of claim

19. (1) In order to bring a claim or counterclaim within the jurisdiction of a court, a party may in that party's summons or statement of defence, or at any time thereafter, explicitly abandon a part of that claim or counterclaim.

(2) Subject to subsection (3), that part of a claim or counterclaim so abandoned, shall thereby be extinguished.

(3) If the claim or counterclaim is granted in part only the abandonment shall be deemed first to apply to that part of the claim or counterclaim which was not granted.

Deduction of admitted debt

20. In order to bring a claim or counterclaim within the jurisdiction of a court a party may, in that party's summons or statement of defence or at any time thereafter, deduct from the claim or counterclaim, whether liquidated or unliquidated, any amount admitted by one party to be due by the party admitting to the other party concerned.

Splitting of claims disallowed

21. A claim exceeding the jurisdiction of a court and based on one and the same cause of action may not be split with the object of recovering it in more than one action, if the parties to those actions and the point in issue in those actions would be the same.

Cumulative jurisdiction

22. Where two or more claims, each based upon a different cause of action, are combined in one summons, a court shall have the same jurisdiction to adjudicate upon each claim as it would have had if each claim had formed the sole object of a separate action.

No jurisdiction by virtue of consent of parties

23. Subject to the provisions of this Act a court shall not, even by virtue of the consent of the parties, have jurisdiction to hear any action which otherwise exceeds its jurisdiction.

Cessation of action

24. (1) Where a court is of the opinion that a case contains difficult or complex questions of law or of fact which cannot adequately or fairly or should not be decided by it, it shall stop the proceedings.

(2) If the proceedings are stopped as contemplated in subsection (1), the plaintiff may institute a fresh action in another competent court of law.

Defendants subject to jurisdiction of courts

25. (1) A person shall not be bound to institute an action in terms of this Act in respect of a claim which may also be adjudicated upon in another court of law, but if an action is so instituted, the defendant shall be subject to the jurisdiction of the court in question.

(2) Any provision in an agreement to the effect that the jurisdiction of a court shall be excluded, or that a party thereto shall not institute an action in terms of this Act, other than a provision to the effect that a dispute arising from the agreement shall be resolved by arbitration, shall be void.

**CHAPTER IV
RULES OF COURT**

Power of Minister to make rules and regulations

26. (1) The Minister may make regulations or rules regulating the following matters in respect of small claims courts-

- (a) the practice and procedure, including the procedure when proceedings are reviewed;
- (b) fees and costs;
- (c) the duties and powers of officers of the court;
- (d) the establishment, duties and powers of one or more boards or committees to advise the Minister on the functioning of courts;
- (e) any other matter which the Minister may consider necessary or expedient to prescribe for carrying out the provisions of this Act or the attainment of its objects.

(2) Different regulations or rules may be made under subsection (1) with regard to different classes of cases.

(3) A regulation or rule relating to Government revenue or Government expenditure shall not be made under subsection (1), except with the concurrence of the Minister of Finance.

(4) A new regulation or rule and an amendment or repeal of a rule shall not come into operation unless it has been published in the Gazette at least thirty (30) days before the day upon which it is expressed to come into operation.

CHAPTER V
PROCEDURE AND EVIDENCE

Procedure

27. (1) Subject to the provisions of this Chapter, the rules of the law of evidence shall not apply in respect of the proceedings in a court, and a court may ascertain any relevant fact in such manner as it may deem fit.

(2) Evidence to prove or disprove any fact in issue, may be submitted in writing or orally.

(3) A party shall not question or cross-examine any other party to the proceedings in question or a witness called by the latter party, but the presiding commissioner shall proceed inquisitorially to ascertain the relevant facts, and to that end, the presiding commissioner may question any party or witness at any stage of the proceedings or even recall a party or witness.

(4) Notwithstanding subsection (3) the commissioner may in the discretion of the commissioner permit any party to put a question to any other party or any witness.

Evidence

28. (1) Subject to the provisions of subsection (2), a party may call one or more witnesses to prove the claim, counterclaim or defence of the party.

(2) The provisions of subsection (1) shall not affect the power of the court to decide that sufficient evidence has been adduced on which a decision can be arrived at, and to order that further evidence shall not be adduced.

Evidence to be given under oath

29. A person shall not testify or be questioned in a court unless the prescribed oath has been administered to that person or the prescribed affirmation has been accepted from that person by the presiding commissioner or by the clerk of the court, or any person acting as the clerk of court, in the presence of that commissioner, or, if the person concerned is to give evidence through an interpreter, by the commissioner through the interpreter.

Institution of actions

30. (1) The plaintiff-

(a) shall deliver a summons as prescribed personally or through the plaintiff's authorized representative of the plaintiff to the clerk of the court, together with a copy of a written demand which was on a prior occasion delivered to the defendant by the plaintiff by hand or by registered post and in which the defendant was, notwithstanding anything to the contrary in any law contained, allowed at least 14 days, calculated from the date of receipt of that demand by the defendant, to satisfy the plaintiff's claim; and

(b) may not, until judgment has been given in an action arising from a business or profession carried on or exercised by the plaintiff, deliver a summons referred to in paragraph (a) to the clerk of the court in respect of any other action arising from that business or profession.

(2) Upon production of the prescribed proof that the reminder contemplated in subsection (1) was delivered to the defendant, and if the clerk of the court is satisfied that the plaintiff is a natural person and that the summons complies with the prescribed requirements, the clerk of the court shall set a date and time for the hearing of the action and issue the summons and hand it to the plaintiff or the authorized representative of the plaintiff, who shall personally serve it on the defendant, or deliver it to the messenger of the court for service on the defendant.

(3) Apart from the summons pleadings shall not be required of the parties, but the defendant may at any time before the hearing lodge with the clerk of the court a written statement setting out the nature of that defendant's defence and particulars of the grounds on which it is based, and a copy of that statement shall be furnished to the plaintiff by the defendant.

Withdrawal of claims

31. (1) A plaintiff may at any time, whether before or during the hearing of the action, withdraw the claim with the consent of the court and on such conditions as the court may determine, whereupon the proceedings shall be ceased.

(2) Notwithstanding the provisions of subsection (1), if proceedings are ceased as provided for under subsection (1) the plaintiff may bring anew the action with the consent of the court.

Joinder of plaintiffs

32. (1) Any number of persons, each of whom has a separate claim against the same defendant, may join as plaintiffs in one action if the right of each to relief depends upon the determination of some question of law or fact which, if separate actions were instituted, would arise in each action.

(2) Notwithstanding subsection (1) where a joint action is instituted the defendant may apply to the court that separate trials be held and the court may in its discretion make such order as it may deem just and expedient.

(3) In a joint action judgment may be granted for one or more or for all of the plaintiffs.

Joinder of defendants

33. (1) Two or more defendants may be sued in the alternative or both in the alternative and jointly in one action, where the plaintiff alleges that the plaintiff is uncertain which of the defendants is in law liable for the claim.

(2) The court may, in its discretion and on application by one or more of the defendants, order that separate trials be held or make such other order as it may deem just and expedient.

Amendment of documents

34. (1) A court may at any time before judgment amend any summons or other document in connection with a case subject to the fact that amendment shall not be made if any party other than the party applying for the amendment may be prejudiced by that amendment.

(2) The amendment may be made upon such conditions as the court may deem reasonable.

(3) In documents before the court the name of any person or place as commonly known may be employed and the court may, on application, at any time before or after judgment substitute the correct name for that name.

CHAPTER VI
JUDGMENT AND COSTS

Judgment

35. A court may, after the hearing of an action, grant-

- (a) judgment for the plaintiff in respect of the claim in so far as the plaintiff has proved it;
- (b) judgment for the defendant in respect of the defence or counterclaim in so far as the defendant has proved it;
- (c) absolution from the instance, if the court is of the opinion that the evidence does not enable it to give judgment for either party;
- (d) such judgment as to costs contemplated in section 38 as may be just;
- (e) an order, on such conditions as the court may deem fit, against the party for whom judgment has been granted, deferring wholly or in part further proceedings upon the judgment for a specified period pending arrangements by the other party for the satisfaction of the judgment.

Judgment by default or by consent

36. (1) If a defendant, upon a summons having been served on the defendant in terms of section 30-

- (a) admits liability and consents to judgment in writing; or
- (b) fails to appear before the court on the trial date or on any date to which the proceedings have been postponed, the court may, on application by the plaintiff, grant judgment for the plaintiff in so far as the plaintiff has proved the defendant's liability and the amount of the claim to the satisfaction of the court, and the court may dismiss any counterclaim by the defendant.

(2) If a plaintiff fails to appear before the court on the trial date or on any other date to which the proceedings have been postponed, the court may, on application by the defendant-

- (a) dismiss the plaintiff's claim: Provided that the plaintiff may again institute an action for that claim with the consent of the court; and
- (b) with regard to a counterclaim, grant judgment for the defendant in so far as the defendant has proved the plaintiff's liability and the amount of the counterclaim to the satisfaction of the court.

Rescission of certain judgments

37. The court may, upon application by any person affected by a judgment issued by a court under this Act or, in a case contemplated in paragraph (c) also the court may of its own-

- (a) rescind or vary any judgment granted by it in the absence of the person against whom that judgment was granted, provided the application for set-down for hearing is made on a date within six weeks after the applicant first had knowledge of the judgment;

- (b) rescind or vary any judgment granted by it which was from beginning or was obtained by fraud or as a result of a mistake common to the parties, provided the application is made not later than one year after the applicant first had knowledge of the voidness, fraud or mistake;
- (c) correct obvious errors in any judgment, provided, in the case of an application, the application is made not later than one year after the applicant first had knowledge of any errors.

Costs

38. Costs awarded in terms of this Act may only include-

- (a) court fees;
- (b) the prescribed amount for the issue of the summons;
- (c) the fees and travelling expenses of the messenger of the court.
- (d) reasonable out of pocket expenses of the defendant at the discretion of the commissioner.

CHAPTER VII EXECUTION

Money to be paid direct to judgment creditor

39. Money payable in terms of a judgment or order of a court shall be paid by the judgment debtor direct to the judgment creditor.

Inquiry into financial position

40. (1) When a court grants judgment for the payment of a sum of money, the court shall enquire from the judgment debtor whether the judgment debtor is able to comply with the judgment without delay, and if the judgment debtor indicates that it is unable to do so, the court may, in camera, conduct an inquiry into the financial position of the judgment debtor and into the ability of the debtor to pay the judgment debt and costs.

(2) After the inquiry in terms of subsection (1) the court may-

- (a) order the judgment debtor to pay the judgment debt and costs in specified instalments or otherwise;
- (b) suspend the order under paragraph (a) either wholly or in part on such conditions as to security or otherwise as the court may determine.

Offer by judgment debtor after judgment

41. If an order has not been made in terms of section 40 (2), the judgment debtor may within ten (10) days after the court has granted judgment for the payment of a sum of money, make a written offer to the judgment creditor to pay the judgment debt and costs in specified instalments or otherwise, and if such an offer is accepted by the judgment creditor, the clerk of the court shall, at the written request of the judgment creditor, accompanied by the offer, order the judgment debtor to pay the judgment debt and costs in accordance with the offer, and such an order shall be

deemed to be an order of the court in terms of section 40.

Manner of execution

42. (1) When a court has granted judgment for the payment of money or made an order for the payment of money in instalments, that judgment, in the case of failure to pay the money within ten (10) days, or that order, in the case of failure to pay an instalment at the time and in the manner determined by the court, shall be enforceable by execution in the magistrate's court having jurisdiction in accordance with the provisions of the Magistrates' Courts Act, 1938, and the judgment creditor may proceed as if the judgment was granted in the magistrate's court in favour of judgment creditor for the amount mentioned in the affidavit referred to in subsection (2).

(2) The clerk of the court shall, upon the written application of the judgment creditor accompanied by an affidavit specifying the amount and the costs still owing under the judgment or order and how that amount is arrived at, transmit that affidavit, together with a certified copy of that judgment or order reflecting the nature of the cause of action to the clerk of the magistrate's court having jurisdiction over the court or the area in which the judgment debtor resides, carries on business or is employed, or, if the judgment debtor is a juristic person, of the Region or area in which its registered office or main place of business is situated.

(3) Upon receipt of the documents referred to in subsection (2) the clerk of the magistrate's court concerned shall record the details of the judgment or order and the amount so owing and mentioned in the affidavit in the registers kept by the clerk for that purpose.

Property exempt from execution

43. The provisions of section 42 of the Magistrates Court Act, 1938 shall apply with necessary alterations in respect of a warrant of execution in terms of this Act.

Notice of change of address by judgment debtor

44. Any person against whom a court has granted judgment or made any order and who has not satisfied in full that judgment or order or has not paid all costs for which that person is liable in connection with that judgment or order, shall, if that person has changed the place of residence, business or employment, within fourteen (14) days from the date of every such change notify the judgment creditor fully and correctly in writing of the new place of residence, business or employment of that person.

Judgment or order final

45. A judgment or order of a court under this Act shall be final and an appeal shall not lie from it.

Grounds of review

46. (1) Any of the following shall be a ground upon which the proceedings of a court may be taken on review before the High Court-

- (a) absence of jurisdiction on the part of the court;
- (b) interest in the cause, bias, malice or corruption on the part of the commissioner; or
- (c) gross irregularity with regard to the proceedings.

(2) The Chief Justice shall from time to time appoint for a period and Region or area an attorney or advocate on such terms and conduct as the Chief Justice may determine with authority to hear and determine with finality reviews in terms of this section.

CHAPTER IX OFFENCES

Offences relating to execution

47. Any person who-

- (a) obstructs a messenger or deputy messenger of the court in the execution of the duties of that messenger or deputy messenger's duties under this Act;
- (b) fails to give notice of change of address in terms of section 44, shall be guilty of an offence and liable upon conviction to a fine not exceeding two thousand Emalangeni (E2,000) or to imprisonment for a period not exceeding two months and, on subsequent conviction, to said imprisonment without the option of a fine.

Contempt of court

48. (1) Any person who wilfully insults a commissioner during the session of the court, or a clerk or messenger or other officer present at that session, or who wilfully interrupts the proceedings of a court or otherwise misbehaves in the place where the session of a court is held, shall, without prejudice to the provisions of section 5 (3), be liable to be sentenced summarily or upon summons to a fine not exceeding two thousand Emalangeni (E2,000) or to imprisonment for a period not exceeding two months and, on subsequent conviction, to said imprisonment without the option of a fine.

(2) When sentencing any person under this section, the commissioner shall without delay transmit to the registrar of the High Court for consideration and review by a judge in chambers, a statement, certified by the commissioner to be true and correct, of the grounds and reasons for the action taken by the commissioner, and shall also furnish to the person sentenced a copy of that statement.

CHAPTER X GENERAL PROVISIONS

Pending proceedings

49. The provisions of this Act shall not affect any matter pending in any other court of law at the commencement of this Act, and such a matter shall be disposed of in the court in question as if this Act was not passed.

Minister to make regulations

50. The Minister may in addition to section 26, after consultation and agreement with the Attorney General and the Chief Justice, increase or decrease the jurisdiction under section 16 of one particular court or of all the courts under this Act.

FIRST SCHEDULE (in terms of section 10 (6))

I, do hereby swear (or solemnly) and sincerely affirm and declare that whenever I may be called upon to perform the functions of a commissioner in any court I shall administer justice to all persons alike without fear, favour or prejudice and, as the circumstances of a particular case may require, in accordance with the law and customs of Swaziland.

THE MAGISTRATE'S COURT (AMENDMENT) BILL, 2008
(Bill No. 11 of 2008)

(To be presented by the Minister of Justice and Constitutional Affairs)

MEMORANDUM OF OBJECTS AND REASONS

The object of this Bill is to amend the Magistrate's Court Act, 1938 so as to increase the basic jurisdiction of magistrates with regard to civil and criminal matters and to confer power to the Minister to increase such jurisdiction whenever a need so arises to conform to or as is provided for under section 73 for criminal matters of the Act, that is to say, to confer the same power in respect of civil matters as is conferred in criminal matters.

J. M. DLAMINI
ATTORNEY -GENERAL

A BILL
entitled

An Act to amend the Magistrate's Court Act, 1938 so as to increase the basic jurisdiction of Magistrates in civil and criminal matters and confer power to the Minister to increase the civil jurisdiction.

ENACTED by the King and the Parliament of Swaziland.

Short title and commencement

1. This Act may be cited as the Magistrate's Court (Amendment) Act, 2008 shall be read as one with the Magistrate's Court Act, 1938 hereinafter in this Act referred to as "the Principal Act") and shall come into force on the date of publication.

Amendment of Section 2

2. Section 2 of the Principal Act is amended as follows by deleting the definition of "court" and replacing it with a new definition as follows-

"court" means a magistrate's court, a senior magistrate's court, a principal magistrate's court;"

Amendment of Section 3

3. Section 3 of the Principal Act is amended in paragraphs (a), (b) and (c) by deleting those paragraphs and replacing them with new paragraphs (a), (b) and (c) as follows-

- "(a) principal magistrate's court;
- (b) senior magistrate's court; and
- (c) magistrate's court ."

Amendment of the Principal Act and the Magistrate's Court Rules

4. The Principal Act, the Magistrate's Rules and any other law wherever the words-

- (a) "magistrate's courts of the first class" ;
- (b) "magistrate's courts of the second class" and
- (c) "magistrate's courts of the third class",

appear, are deleted and replaced, respectively, with the following words-

- (a) "principal magistrate's courts";
- (b) "senior magistrate's courts" and
- (c) "magistrate's courts".

Amendment of Section 16

5. Section 16 of the Principal Act is amended by -

- (a) replacing it with a new section 16 as follows-

"Jurisdiction in respect of causes of action.

16. (1) Subject to section 16 tis and any other provision of this Act or other law the jurisdiction of magistrate's courts in civil matters shall be-

- (a) in the case of principal magistrate's courts, all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed thirty (30) thousand Emalangeni;
 - (b) in the case of senior magistrate's courts, all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed twenty (20) thousand Emalangeni;
 - (c) in the case of any magistrate's courts (lower than a senior magistrate's court), all actions permitted by law or practice and actions where the claim or value of the matter in dispute does not exceed ten (10) thousand Emalangeni.
- (2) Where both parties are Swazis, and the cause of action is, in the opinion of the clerk of the court, one suitable to be heard in a Swazi Court of appropriate jurisdiction established or recognized under the Swazi Courts Act, 1950 or the Swazi Administration Act, 1950 or its successor and permissible under the Constitution, the clerk may refuse to issue summons, and may order the plaintiff to commence the action in such Swazi court or other court;
- (3) At any time after the issue of summons commencing action in any case where both parties are Swazis, the court may order that the action be transferred to a Swazi court of appropriate jurisdiction or to such other court as specified in this section."; and

- (b) adding a new section 16 tis immediately after section 16 as follows -

"Power to confer increased jurisdiction.

16 *bis*. The Minister may, in consultation with the Chief Justice and by notice published in the Gazette, increase the jurisdictional amounts specified under section 16."

Amendment of Section 72.

6. Section 72 (1) of the Principal Act is amended-

(a) in paragraph (a), by deleting sub-paragraphs (i) and (ii) and replacing them with new sub-paragraphs (i) and (ii) as follows-

" (a) a principal magistrate's court-

(I) imprisonment for a period not exceeding fifteen (15) years;

(II) fine not exceeding thirty (30) thousand Emalangeni or in default of payment such imprisonment as specified in this paragraph;"

(b) in paragraph (b), by deleting sub-paragraphs (i) and (ii) and replacing them with new sub-paragraphs (i) and (ii) as follows-

(b) a senior magistrate's court-

(i) imprisonment for a period not exceeding ten (10) years;

(ii) fine not exceeding twenty. (20) thousand Emalangeni or in default of payment such imprisonment as specified in this paragraph;"

(c) in paragraph (c), by deleting sub-paragraphs (i), (ii) and (iii) and replacing them with new sub-paragraphs (i), (ii) and (iii) as follows-

(b) a magistrate's court (lower than a senior magistrate)-

(i) imprisonment for a period not exceeding seven (7) years;

(ii) fine not exceeding fifteen (15) thousand Emalangeni or in default of payment such imprisonment as specified in this paragraph;

(iii) whipping, subject to the provisions of section 84 and of this section, not exceeding eight strokes with a cane"

(d) in the second proviso, by deleting the words "Senior Magistrate" and replacing them with the words "principal magistrate" and further deleting the words "ten years", where they appear, and replacing them with the words "eighteen years".

Repeal of Legal Notice No. 57 of 1988

7. The Magistrate's Court Courts (Increase of Jurisdiction) Notice, 1988 is repealed.

LEGAL NOTICE NO. 99 OF 2008**THE CONSTITUTION OF SWAZILAND ACT, 2005
(Act No. 001 of 2005)****THE ESTABLISHMENT OF THE LAW REPORTING COMMITTEE FOR
SWAZILAND LAW REPORTS NOTICE, 2008
(Under Section 141)**

In exercise of the powers conferred by Section 141 of the Constitution of Swaziland Act, 2005 the Chief Justice issues the following Notice -

Citation

1. (1) This Notice may be cited as the Establishment of the Law Reporting Committee for Swaziland Law Reports Notice, 2008.

(2) This Notice shall come into force on the date of publication in the gazette.

Establishment of the Law Reporting Committee

2. (1) There is established a Committee to be known as the Law Reporting Committee.

(2) The Committee shall be composed of the following members -

(1) Chief Justice R. A. Banda, SC;

(2) Justice M. D. Mamba;

(3) Mrs. Lorraine Hlophe;

(4) Ms. P. Twala;

(5) Mr. D. Mabirizi;

(6) Ms. F. Nhlabatsi;

(7) Mr. D. Khumalo; and

(8) Ms. S. Ngqotheni.

Duties of the Committee

3. (1) The Committee shall collect, compile update and cause to be published by Lexis Nexis Butterworth Publishing Company the judgments of the High Court and Supreme Courts of Swaziland covering the period from 2001 to 2008.

(2) The Committee in performance this task, shall -

(a) Compile the judgments;

(b) Select reportable cases;

- (c) Read and make case summaries, including:
 - (i) assigning each case;
 - (ii) annotating each case;
 - (iii) creating flynotes (headnotes);
 - (iv) listing cases and legislation referred to;
- (d) Create indexes and table of contents;
- (e) Checking and making corrections to the dumb volumes including pagination and final checks; and
- (f) Proof read and proof pages.

(3) The Committee shall, in order to meet the deadlines as per contract, work beyond Government working hours and on weekends.

Duration of the Committee

4. The Committee shall commence its duties on the 14th March, 2008 and complete its work no later 31st December 2008.

Payment of the Committee

5. The Committee shall be paid such allowances as are payable to members of Committees under the Commissions of Enquiry Act, 1963.

R. A. BANDA
CHIEF JUSTICE
HIGH COURT OF SWAZILAND

LEGAL NOTICE NO. 102 OF 2008

THE CIVIL SERVICE ORDER, 1973
(Order No. 16 of 1973)

APPOINTMENT OF ACTING PRINCIPAL SECRETARIES
(Under Section 8)

In exercise of the powers vested in me by Section 8 of the Civil Service Order, 1973, I, Mswati III, King of Swaziland, hereby appoint:

THEMBISILE M. MKOKO

To act as Principal Secretary in the Ministry of Education with effect from 1st February 2008 to 30th April 2008.

STEPHEN THEMBINKOSI MOTSA

To act as Principal Secretary in the Ministry of Economic Planning and Development with effect from 17th April 2008 to 4th May 2008.

NIKWANI DLAMINI

To act as Principal Secretary in the Ministry of Foreign Affairs and Trade with effect from 20th March 2008 to 5th April 2008.

SIPHO NXUMALO

To act as Principal Secretary in the Ministry of Agriculture and Co-operatives with effect from 10th March 2008 to 9th April 2008.

THUS SIGNED UNDER MY HAND AT LOZITHEHLEZI ON THIS 7TH DAY OF 2008.

MSWATI III
KING OF SWAZILAND

LEGAL NOTICE NO. 103 OF 2008

THE CIVIL SERVICE ORDER, 1973
(Order No. 16 of 1973)

APPOINTMENT OF ACTING AUDITOR GENERAL
(Under Section 8)

In exercise of the powers vested in me by Section 8 of the Civil Service Order, 1973, I, Mswati III, King of Swaziland, hereby appoint:

MR ANDREAS M. DLAMINI

To act as Auditor General in the Audit Department with effect from 17th March 2008 to 2nd May 2008.

THUS SIGNED UNDER MY HAND AT LOZITHEHLEZI ON THIS 7TH DAY MAY OF 2008.

MSWATI III
KING OF SWAZILAND

LEGAL NOTICE NO. 105 OF 2008

THE COMMISSIONS OF ENQUIRY ACT, 1963
(Act No. 35 of 1963)

THE SCHOLARSHIP SELECTION COMMITTEE
(AMENDMENT) NOTICE, 2008
(Under Section 3)

In exercise of the powers conferred by Section 3 of the Commissions of Enquiry Act, 1963, the Minister for Education hereby issues the following Notice:

Citation and Commencement

1. This Notice may be cited as the Scholarship Selection Committee (Amendment) Notice, 2008 and shall come into force on the date of publication.

Amendment of Legal Notice No. 40 of 2007

2. Section 2 of Legal Notice No. 40 of 2007 is amended by revoking the appointment of ARTWELGULE as member and appointing CASPER MFANA DUDE as member.

T. J. MSIBI
MINISTER FOR EDUCATION

S25

LEGAL NOTICE NO. 107 OF 2008

**THE CENTRAL BANK OF SWAZILAND
(ORDER NO.6 OF 1974)**

**RATES FOR DISCOUNTS, REDISCOUNTS AND ADVANCES
NOTICE, 2008
(Under Section 38)**

In exercise of the powers conferred by Section 38 of the Central Bank of Swaziland Order, 1974, the Central Bank of Swaziland has determined that its rates for discounts, rediscounts and advances shall be 11.50% with effect from 14th April 2008 until further notice.

S. G. MDLULI
DEPUTY GOVERNOR
CENTRAL BANK OF SWAZILAND