

eSwatini

## Civil Service Order, 1973

Act 16 of 1973

Legislation as at 1 December 1998

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## Civil Service Order, 1973

### Contents

1. Short title .....	1
2. Interpretation .....	1
3. Establishment of Civil Service Board .....	1
4. Functions of the Civil Service Board .....	2
5. Other provisions of existing Civil Service Board Regulations to continue .....	2
6. Non-applicability of the High Commissioner's Notice to certain offices .....	2
7. Appointment and removal of Ambassador etc. ....	2
7bis. Auditor-General .....	3
8. Appointment etc. of Permanent Secretaries and certain police and prison officers .....	3
9. Functions of the Attorney-General .....	3
10. The Royal Swaziland Police Force .....	3
11. The Prison Service .....	4
12. Pension laws and protection of pension rights .....	4
13. Validation of certain acts by the Prime Minister .....	4
14. Political detainees .....	4

## eSwatini

# Civil Service Order, 1973

Act 16 of 1973

Assented to on 7 May 1973

Commenced on 13 April 1973

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

### 1. Short title

This King's Order-in-Council may be cited as the Civil Service Order, 1973.

### 2. Interpretation

Unless the context otherwise requires—

“**High Commissioner's Notice**” means the Public Service Commission (General) Regulations, 1963 published in the Laws of Swaziland under the High Commissioner's Notice No. 34 of 1963:

Provided that such Regulations shall be construed with such modifications, adaptations, qualifications, and exceptions as may be necessary to bring them into conformity with Swaziland's status as an independent sovereign state and with the Proclamation;

“**Proclamation**” means the Proclamation and decrees contained therein made by the King to the citizens of Swaziland on the 12th April, 1973;

“**public office**” means any office of emolument in the public service;

*[Added K.O-I-C. 24/1973]*

“**public officer**” means any holder of any public office and includes any person appointed to act in any such office;

*[Added K.O-I-C. 24/1973]*

“**public service**” means service in a civil capacity in respect of the government of Swaziland;

*[Added K.O-I-C. 24/1973]*

“**repealed constitution**” means the Constitution Act, [No. 50 of 1968c](#) repealed with savings by the Proclamation.

### 3. Establishment of Civil Service Board

- (1) There shall be a Civil Service Board for Swaziland which shall consist of a chairman and not less than four members who shall be appointed by the King on such terms and conditions, including the amount of remuneration payable to them, and for such period as he may deem fit, but subject to this King's Order-in-Council and the Proclamation, the appointment, promotion, transfer, termination of appointment, dismissal and disciplinary control of public officers are vested in the Prime Minister who may however delegate such functions and duties to an Assistant Minister.

*[Amended K.O-I-C. 24/1973]*

- (2) The chairman or a member of the Board may be removed by the King from office for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour:

Provided that if the King so desires he shall not be so removed unless the question of his removal has been referred to a tribunal established by the King to investigate such question, and such tribunal has, after having given such member or any person representing him a fair and reasonable hearing, presented a written confidential report to the King of its investigations and conclusions.

- (3) In the absence of the chairman, the Prime Minister may appoint any other member of the Board to act as chairman during such absence. *[Amended K.O-I-C 24/1973]*

#### **4. Functions of the Civil Service Board**

The functions of the Civil Service Board shall subject to this King's Order-in-Council be those set out in Regulation 22 of the High Commissioner's Notice:

Provided that any reference in such Regulations to the "Resident Commissioner" shall be deemed to be a reference to the Prime Minister or any Assistant Minister to whom the Prime Minister may delegate any of the functions and duties thereby imposed on him.

#### **5. Other provisions of existing Civil Service Board Regulations to continue**

Subject to this King's Order-in-Council the following regulations in the High Commissioner's Notice shall continue to be in force and effect, namely, regulations 2, 9 to 21 (inclusive), 23 to 57 (inclusive):

Provided that any reference in such Regulations to the "High Commissioner" or the "Resident Commissioner", as the case may be, shall be deemed to be a reference to the Prime Minister or any Assistant Minister to whom the Prime Minister may delegate any of the functions and duties thereby imposed on him.

#### **6. Non-applicability of the High Commissioner's Notice to certain offices**

The provisions of the High Commissioner's Notice shall not apply in relation to any of the following offices —

- (a) the office of the High Court or Court of Appeal;
- (b) the office of Ambassadors, High Commissioners or principal representatives of Swaziland in other countries or on international organizations;
- (c) the office of Permanent Secretaries or the Secretary to the Council;
- (d) the office of the Attorney-General;
- (e) the office of the Auditor-General;
- (f) any office in the Police Force or the Prison Service to the extent provided for in sections 10 and 11 respectively;
- (g) any office in the Armed Forces of the Kingdom of Swaziland;
- (h) the office of Director of Public Prosecutions.

*[Amended K.O-I-C. 24/1973]*

*[Added K.O-I-C. 17/1973]*

#### **7. Appointment and removal of Ambassador etc.**

- (1) The King may appoint any person to the office of Ambassador, High Commissioner or other principal representative of Swaziland in other countries or on international organizations on such terms and conditions and, subject to subsection (2), for such period as he may deem fit.
- (2) The King may notwithstanding subsection (1) hereof at any time remove an Ambassador, High Commissioner or such principal representative from office.

**7bis. Auditor-General**

- (1) The words “Director of Audit” in chapter XI of the repealed constitution as re-instated by the Proclamation are replaced by the words “Auditor-General”.
- (2) Section 100, as read with section 120, of the repealed constitution shall apply to the position of Auditor-General:

Provided that such sections shall be construed as if there is no reference in them to the Judicial Service Commission.

*[Added K.O-I-C. 24/1973]*

**8. Appointment etc. of Permanent Secretaries and certain police and prison officers**

- (1) This section applies to the offices of the Secretary to the Council, Commissioner of Police, Deputy Commissioner of Police, Commissioner of Prisons, Deputy Commissioner of Prisons, and Permanent Secretaries.
- (2) The power to appoint persons to hold or act in any office to which this section applies, and subject to subsection (3), to exercise disciplinary control over persons holding or acting in such offices and to remove such persons from office shall vest in the King.
- (3) Before exercising any power under subsection (2) to exercise disciplinary control over or remove from office any person the King may direct the Prime Minister to refer the question of the exercise of those powers in that case to the Civil Service Board and the following provisions shall apply —
  - (a) the Prime Minister shall cause the person concerned to be furnished with a statement of the grounds upon which it is proposed to exercise those powers;
  - (b) the Board shall enquire into the facts of the case and shall, if the person so requests, consider any representations that he wishes to make in person or in writing;
  - (c) the Board shall report its findings on the facts of the case and its recommendations concerning the exercise of any powers under subsection (2) to the Prime Minister who shall transmit such report, together with any comments he may wish to make thereon, to the King.

**9. Functions of the Attorney-General**

In addition to the powers and duties vested in him under the Proclamation, the Attorney-General shall continue to be the principal legal adviser to the Government of Swaziland and shall have such other functions as may be conferred on him by any other law.

**10. The Royal Swaziland Police Force**

- (1) In relation to any officer in the Royal Swaziland Police Force below the rank of inspector, none of the functions imposed on the Civil Service Board under this Order shall apply to the extent to which such functions are by or under the provisions of any law in force in Swaziland exercised by the Commissioner of Police or any other officer in the Royal Swaziland Police Force:

Provided that in the case of disciplinary proceedings an appeal shall lie to the Civil Service Board against the award by the Commissioner of Police or such other officer of the punishment of dismissal or reduction in rank.

## 11. The Prison Service

- (1) The provisions of [section 10](#) shall apply to persons holding offices in the Prison Service below the rank of Chief Officer as they apply to persons holding offices in the Royal Swaziland Police Force below the rank of inspector.
- (2) For the purpose of this section the reference in [section 10](#) to “Royal Swaziland Police Force”, “inspector”, and “Commissioner of Police” shall be deemed to refer respectively to “the Prison Service”, “Chief Officer” and “Commissioner of Prisons”.

## 12. Pension laws and protection of pension rights

- (1) Section 123 of the repealed constitution is hereby reinstated and shall continue to be of full force and effect:  
  
Provided that the date “6th September, 1968”, wherever it appears in that section, shall be replaced by the words “12th April, 1973”.
- (2) Section 124(1), (2), (3), (5) and (6) of the repealed constitution is hereby reinstated and shall continue to be of full force and effect:  
  
Provided that the words “appropriate commission”, wherever they appear in such subsections, shall be replaced by the words “Prime Minister”.

## 13. Validation of certain acts by the Prime Minister

Anything done by the Prime Minister or any person authorized by him thereto between the 12th April, 1973 and the date of the promulgation of this King’s Order-in-Council in regard to the appointment, transfer, termination of the appointment or dismissal or other control of any public officer or the abolition of any public office, other than in regard to any of the offices referred to in [section 6](#), shall be as valid to all intents and purposes as if it had been done in terms of this King’s Order-in-Council.

## 14. Political detainees

- (1) For the purpose of this section a “political detainee” means a person who has been detained in the public interest under the provisions of the Proclamation.
- (2) Notwithstanding any other law, the Prime Minister may, subject to such conditions, including the continuance or discontinuance of the payment to him of any emolument, and for such period as the Prime Minister may determine, suspend any public officer from his office as such, if he has been detained as a political detainee and the provisions of regulation 39 of the High Commissioner’s Notice shall be applicable to such suspension.
- (3) For the purposes of any disciplinary action against a public officer in terms of this Order the detention of a person as a political detainee shall have the same effect as if he had been convicted of a criminal charge.

*[Added K.O-I-C. 24/1973]*