

eSwatini

## Tribunal Decree, 1987

Act 3 of 1987

Legislation as at 1 December 1998

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## Tribunal Decree, 1987

### Contents

1. Short title .....	1
2. Interpretation .....	1
Appointment of Tribunal .....	1
Section 3. ....	1
Section 4. ....	1
Constitution of Tribunal .....	1
Section 5.1 .....	1
Section 5.2 .....	2
Jurisdiction of Tribunal .....	2
Section 6.1 .....	2
Section 6.2 .....	2
Officers of the Tribunal .....	2
Section 7.1 .....	2
Section 7.2 .....	2
Procedure and Rules .....	2
Section 8.1 .....	2
Section 8.2 .....	2
Section 8.3 .....	3
Section 8.4 .....	3
Section 8.5 .....	3
Section 8.6 .....	3
Contempt of Tribunal .....	3
Section 9. ....	3
Power to summon witnesses .....	3
Section 10.1 .....	3
Section 10.2. ....	4
Prescription of offences .....	4
Section 11. ....	4

## eSwatini

### Tribunal Decree, 1987

#### Act 3 of 1987

#### Commenced

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

In exercise of the powers vested in me by Paragraph 14 of the Decree contained in the King's Proclamation to the Nation of the 12th April, 1973, I, Mswati III, King of Swaziland, hereby make the following Decree:

#### 1. Short title

This King's Decree may be cited as "The Tribunal Decree, 1987".

#### 2. Interpretation

In this Decree, unless the context otherwise requires—

"**Tribunal**" means the Tribunal appointed in terms of [Section 4](#) of this Decree;

"**Repealed Constitution**" means the Constitution of the Kingdom of Swaziland, Act [50 of 1968](#);

"**this Decree**" means the Tribunal Decree, 1987;

"**law**" in sub-section 2 of Section 8 of this Decree means "law as defined in the Interpretation Act, 1970.

### Appointment of Tribunal

#### 3.

Where the Prime Minister is of the opinion that a person may have committed an offence which in his opinion involves the Person or Office of the Ngwenyama, the Person or Office of the Ndlovukazi and/or any matter mentioned in Schedule 3 to the Repealed Constitution and/or any aspect of Swazi Law and Custom, he may, under this Decree, issue a certificate to that effect and all proceedings regarding such offence shall then be held before the Tribunal provided for under [Section 4](#) of this Decree.

#### 4.

The King may, with the advice of the Prime Minister appoint a Tribunal to hear and determine all charges regarding the matters mentioned in [Section 3](#) of this Decree.

### Constitution of Tribunal

#### 5.1

The Tribunal appointed in terms of [Section 4](#) of this Decree, shall consist of a Chairman (having such legal qualifications as the King may determine) and not less than two other members who in the opinion of the King have suitable and sufficient knowledge of Swazi Law and Custom.

## 5.2

The members of the Tribunal shall be appointed by the King in accordance with such terms and conditions (including emoluments and allowances) as he may determine and shall hold office until the matter for which the Tribunal has been appointed, has been finalised.

## Jurisdiction of Tribunal

### 6.1

The Tribunal appointed in terms of [Section 4](#) of this Decree, shall have exclusive jurisdiction in the conduct and determination of all proceedings in regard to the matters for which it has been appointed, and no appeal shall lie from the decision of the Tribunal to any Court or other instance.

### 6.2

The Tribunal shall have unlimited jurisdiction in the matters mentioned in [Section 3](#) of this Decree and upon conviction for an offence in terms of this Decree may sentence a person:

- (a) to imprisonment for a period not exceeding 20 (twenty) years; and/or
- (b) to a fine not exceeding E20,000.00 (Twenty thousand Emalangenis; and/or
- (c) any penalty cognisable under Swazi Law and Custom.

## Officers of the Tribunal

### 7.1

The King may appoint a pro-forma Prosecutor having such legal and/or other qualifications as the King may determine, as well as such other officers which the King may deem necessary, on such terms and conditions (including emoluments and allowances) which the King may determine.

### 7.2

The Tribunal and every member or officer thereof shall have the same powers, privileges and immunities as the High Court, a Judge or Officer of the High Court, respectively have.

## Procedure and Rules

### 8.1

All matters heard and determined by the Tribunal shall be determined by a majority of its members and for this purpose every member of the Tribunal, including the Chairman, shall have one vote, and, if the votes are equally divided, the Chairman shall have a casting vote.

### 8.2

Subject to the provisions of this Decree, the Tribunal may make rules for regulating the practice and the procedure of the Tribunal and such rules may (without prejudice to the generality of the foregoing provisions of this sub-section) include provision for any of the following purposes:

- (a) For regulating the sittings of the Tribunal;
- (b) For prescribing forms in respect of proceedings of the Tribunal;

- (c) For prescribing the time within which any requirement of the rules of the Tribunal is to be complied with;
- (d) For prescribing any oaths to be taken by officers of the Tribunal or witnesses giving evidence to the Tribunal.

### 8.3

In the performance of its functions, the Tribunal shall apply Swazi Law and Custom prevailing in Swaziland, together with such other rules relating to procedure as may be made by the Tribunal.

### 8.4

All proceedings of the Tribunal or any part thereof shall be held *in camera* if the proforma Prosecutor, at any time, so requests, and the Tribunal shall comply with any such request.

### 8.5

The pro-forma Prosecutor may request the Commissioner of the Royal Swaziland Police to investigate any offence, action, situation, event or aspect relating to any matter to be heard by the Tribunal and to obtain the necessary statements from witnesses in this regard.

### 8.6

In compliance with Swazi Law and Custom, a person charged before the Tribunal shall not be entitled to any legal representation and shall conduct the case in his defence *in persona*.

## Contempt of Tribunal

### 9.

A person who—

- (a) omits to produce or deliver up a document on the lawful order of the Tribunal; or
- (b) refuses to answer any question lawfully asked by the Tribunal; or
- (c) refuses to sign any statement lawfully required by the Tribunal; or
- (d) intentionally insults the Tribunal or any member thereof; or
- (e) intentionally interrupts proceedings of the Tribunal at any stage;

shall be guilty of Contempt of the Tribunal and on conviction liable to a fine not exceeding 1,000 Emalangeni or imprisonment for a period not exceeding 5 (five) years or both.

## Power to summon witnesses

### 10.1

The Tribunal shall have the power to summon any person before the Tribunal for the purposes of giving evidence:

Provided that if he is in employment, 3 days prior written notice that he is required to attend before such Tribunal shall be given to the employer and if such employer without just or reasonable cause prevents or refuses to allow him to obey the summons, such employer shall be guilty of an offence and liable on conviction to a fine not exceeding 500 Emalangeni or imprisonment for a period not exceeding 20 (twenty) months or both.

**10.2.**

A person who without reasonable excuse fails to obey a summons lawfully issued under this Section, may be arrested and brought before the Tribunal and shall be liable on conviction to a fine not exceeding E300,00 or imprisonment for a period not exceeding 3 (three) years or both.

**Prescription of offences****11.**

No prosecution in respect of an offence heard and determined by the Tribunal in terms of this Decree, shall be begun later than 20 (twenty) years from the time when such offence was committed.