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## Voters Registration Order, 1992

### Kings Order in Council 3 of 1992

Legislation as at 1 December 1998

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## Voters Registration Order, 1992

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# Voters Registration Order, 1992

## Kings Order in Council 3 of 1992

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**A King's Order-in-Council to provide for the registration of voters for purposes of electing members of Parliament, and matters relating thereto.**

### 1. Short title and commencement

This Order may be cited as the Voters Registration Order, 1992, and shall come into force upon publication in the *Gazette*.

### 2. Interpretation

In this Order unless the context otherwise requires—

“**application**” means an application for registration;

“**approved Form**” means the approved form listed and numbered in the First Schedule;

“**Chief**” means a person appointed as such in terms of section 4 of the Swazi Administration Act, 1950;

“**Chief's jurisdiction**” means the jurisdiction of a Chief over his people in terms of Swazi Law and Custom;

“**Citizen of Swaziland**” means a citizen of Swaziland in terms of the Swazi Citizenship Act of 1992;

“**competent witness**” means—

- (a) a Chief or an *Indvuna* of the Chiefdom,
- (b) a person who, within Swaziland, holds the office of, or appointment as, an Assistant Regional Officer, registration officer, returning officer, or a town clerk of a municipality or a chairman or secretary of a town council or town board or police officer of or above the rank of sub-inspector; or
- (c) an Ambassador, High Commissioner or Trade Representative or a member of his staff outside Swaziland who has been appointed by him as a competent witness;
- (d) a person who, within or without Swaziland, is or holds the office of, or appointment as, an advocate, attorney, magistrate, bank manager, consular officer of a country or territory of the Commonwealth, commissioner of oaths or justice of the peace, but does not include candidate for election or election agent;

“**disqualified voter**” means a voter referred to in section 10 of the Establishment of Parliament of Swaziland Order, 1992;

“**election**” means an election of an elected member to the House of Assembly;

“**electoral officer**” means an electoral officer designated under [section 3](#);

“**Indvuna Yenkhundla**” means the *Indvuna* appointed by the *Ngwenyama* in terms of section 4 of the Establishment of Parliament of Swaziland Order, 1992;

“**Inkhundla**” means *Inkhundla* proclaimed under section 3 of the Establishment of Parliament of Swaziland Order, 1992;

“**Magistrate**” means a person appointed as magistrate under the Magistrate’s Court Act of 1938;

“**Minister**” means the Minister responsible for *Tinkhundla* and Regional Development;

“**nomination day**” means the day specified under section 4 of the Elections Order 1992 as nomination day;

“**polling day**” means the day or days specified under section 4 of the Elections Order 1992 as polling day;

“**polling division**” means a polling division specified under section 11 of the Elections Order 1992;

“**polling station**” means a polling station specified under section 11 of the Elections Order 1992;

“**printing**” includes typewriting, roneoing, lithography, photography, and all other modes of representing or reproducing words in visible form;

“**public meeting**” means a meeting consisting of ten or more persons held in a public place;

“**public place**” means a place to which for the time being the public, or any section of the public, is entitled or permitted to have access, whether on payment or otherwise, including *Imiphakatsi*;

“**qualified voter**” means a voter referred to in section 9 of the Establishment of Parliament of Swaziland Order, 1992;

“**registration officer**” means a registration officer designated under [section 3](#);

“**registered voter**” means a voter whose name appears on the voters list;

“**returning officer**” means a returning officer appointed in terms of section 3 of the Elections Order 1992;

“**supplementary voters list**” means any voters list compiled after a voter’s roll is printed in accordance with [section 7\(3\)](#) and before such supplementary list is incorporated into the voter’s roll in terms of [section 7\(3\)\(ii\)](#);

“**Umphatsi-Lukhetfo**” means the *Umphatsi-Lukhetfo* or Chief Electoral Officer appointed by the King in terms of [section 3](#);

“**voter**” means a person whose name is on a voters list;

“**voters list**” means the voters list for an *Inkhundla*, and where applicable includes a supplementary voters list, and “registration” and its grammatical variations shall be construed accordingly.

### 3. Appointment and duties of certain officers

- (1) The King may appoint persons to the following offices after consultation with the Minister:
  - (a) *Umphatsi-Lukhetfo*, who shall be responsible to the King.
  - (b) Deputy *Umphatsi-Lukhetfo*, who shall be responsible to *Umphatsi-Lukhetfo*.
- (2) *Umphatsi-Lukhetfo* shall designate public officers to the following offices:
  - (a) electoral officer;
  - (b) registration officer.
- (3) The functions of each of the officers referred to in this section shall be those prescribed in respect of such officer.

#### 4. Preparations of voters list

- (1) As soon as may be practicable after a delimitation commission has, in terms of section 11 of the Establishment of Parliament of Swaziland Order, 1992 carried out a review of the boundaries of the *Tinkhundla* and polling divisions into which Swaziland is divided and have fixed such boundaries, every electoral officer shall, in accordance with this Order prepare for each *Inkhundla* in the area for which he has been appointed, a voters list of persons who are entitled to vote.
- (2) As from a date fixed by *Umphatsi-Lukhetfo* by notice in the *Gazette*, the voters list so prepared and amended from time to time in accordance with this Order, shall be the voters lists for the respective *Tinkhundla*.

#### 5. Holding of public meetings for registration of voters

- (1) In the case of registration at *Umphakatsi*, registration shall take place in the presence of the Chief and his council who shall provide all relevant information regarding the eligibility of persons applying for registration as voters.
- (2) In the case of registration at urban or industrial areas, the persons applying for registration as voters shall produce evidence of their Swazi Citizenship which shall be produced in the presence of an immigration official and other competent witnesses.
- (3) Within two months after a delimitation commission has carried out a review referred to in [section 4\(1\)](#) *Umphatsi-Lukhetfo* shall publish a notice in the *Gazette* calling upon every person qualified to have his name entered in a voters list to apply for registration to the electoral officer of the *Inkhundla* in which he is entitled to have his name registered, on or before a date to be specified in such notice.
- (4) *Umphatsi-Lukhetfo* shall arrange for the further publication of the notice in such manner as he thinks necessary and shall publish the dates, times and places of public meetings at which persons qualified to be registered may attend and following such notice each chief or *Indvuna Yenkhundla* of Urban or Industrial areas shall call a meeting of his followers for the purpose of registration as voters.
- (5) Such public meetings shall be held in each polling division, and the electoral officer or registration officer for such divisions shall publicly and orally receive all applications for registration.
- (6) If the electoral officer or registration officer, as the case may be, is satisfied that an application is entitled to be registered as a voter he shall enter his name on the approved Form 1 and hand the applicant a copy thereof, which shall be printed on coloured paper, signifying that the applicant is entitled to have his name entered in the voters list, and shall thereafter enter or cause his name to be entered in the appropriate voters list.
- (7) If the electoral officer or the registration officer, as the case may be, is not satisfied that an applicant is entitled to registration he shall reject the application at the public meeting at which it is made, and the applicant may in the presence of such electoral officer or registration officer complete and sign the approved Form No. 2, including the declaration set forth therein.
- (8) Whenever an electoral officer or registration officer has come to a decision referred to in subsection (7) he shall, in the approved Form No. 3 inform the applicant of the decision and the reason thereof.

#### 6. In which *Inkhundla* voter to be registered

- (1) Subject to this section, no person shall be registered in any *Inkhundla*—
  - (a) unless he actually resided in that *Inkhundla* for a continuous period of at least three months immediately preceding the date of completion of the application; or
  - (b) if he did not so reside, unless he retained his home in that *Inkhundla* for such period.

- (2) If the nature of the occupation of any person is such that he is required to change his place of residence often and he does not retain a home in any *Inkhundla* and if he is otherwise qualified for registration, he shall be entitled to be registered in the *Inkhundla* in which his principal place of business is situated; or, if he is in employment, in which the principal place of business of his employer, or the office or branch business of his employer from which his remuneration is paid, is situated.
- (3) Any person who is domiciled in Swaziland and who is in the service of the Government for the performance of any function outside Swaziland (or the wife or adult child of such person) shall be registered in the *Inkhundla* where he had resided or has his home, as the case may be, in terms of subsection (1) immediately prior to taking up his position outside Swaziland.
- (4) If applications for registration in more than one *Inkhundla* are received from any person, the electoral officer shall not include his name in the voters list for any *Inkhundla* other than in which he last qualified by residence for registration.
- (5)
  - (i) If a qualified voter wishes to register outside his chiefdom he shall obtain a duly certified clearance from his Chief.
  - (ii) The Chief shall not withhold such clearance without good cause.

## 7. Particulars shown in voters list

- (1) A voters list shall show, in respect of all persons included therein—
  - (a) their serial numbers, in numerical order if so prescribed;
  - (b) if so prescribed, their surnames in alphabetical order, and immediately thereafter their other names, and if their surnames are identical, their other names in alphabetical order, and
  - (c) their residential address.
- (2) If an *Inkhundla* is divided up into polling divisions under section 11 of the Elections Order of 1992 the voters list for that *Inkhundla* shall be compiled and printed so as to show—
  - (a) the serial numbers and names of voters in each polling division in the manner referred to in subsection (1); and
  - (b) in which polling division each voter is, subject to this Order, required to vote, and a separate voters list may be compiled for each polling division or, subject to section 11 of the Elections Order of 1992, for two or more polling stations in each polling division.
- (3) A supplementary voters list shall be drawn up so as to comply with subsections (1) and (2) as a separate voters list:  
Provided that—
  - (i) the supplementary voters list prepared after any general registration of voters shall contain in alphabetical order the names of all voters registered since the last general registration of voters under [section 4\(2\)](#); and
  - (ii) whenever the voters list is printed in terms of this section any supplementary voters list may be incorporated with the voters list framed in the course of a general registration.
- (4) At the end of every voters list a certificate that the voters list has been checked and is correct shall be signed and dated by the electoral officer responsible for the compilation of the voters list.

## 8. Alteration of name or registration as result of permanent change of residence

- (1) Whenever there has been change in the name of a voter or a permanent change in the place of residence, home, place or business, office or branch business with reference to which a voter has been registered in any *Inkhundla* becomes qualified by his residence he may, immediately

after there has been such change, notify the electoral officer, in the approved Form No. 4, for the *Inkhundla* in which he is registered of the change.

- (2) [Section 6](#) shall apply in respect of any such notification.
- (3) On receipt of any such notification the electoral officer shall, if he is satisfied that there has been a permanent change as described in subsection (1) and that the voter would, if his name is removed from the voters list, not be qualified by residence for registration in the same *Inkhundla* had the notification been an application for registration, remove his name from the voters list for the *Inkhundla* in question, or cause it to be removed:

Provided that if on investigating it is found that the person forwarding such notification is not registered as a voter at the address stated by him in the said notification, unless the prescribed form of application to be registered as a voter duly completed has been annexed to the said notification, the electoral officer shall, in terms of [section 9](#), require such person to complete and forward to him the prescribed form of application to be registered as a voter.

## 9. Returns by registrar of births and deaths

- (1) The registrar of births and deaths shall, not later than the tenth day of every month, transmit to the electoral officer for the area in which the death has taken place, a return in the prescribed form containing the prescribed particulars concerning every adult person whose death was registered by him during the preceding month; and the electoral officer shall transmit to *Umphatsi-Lukhetfo* a return of all such persons whose names do not appear upon a voters list for any *Inkhundla* in the area for which the electoral officer has been appointed.
- (2) The registrar or clerk of any court which—
  - (a) imposes on any person over the age of eighteen years a sentence or makes an order which would render any such person unqualified for registration or disqualified for continuance of registration or incapable of voting at any election; or
  - (b) declares any person incapable during any period of being registered or of voting at any election; or
  - (c) declares any person to be mentally disordered or defective,shall, not later than the tenth day of the month following the month in which the sentence was imposed or the order was issued or the declaration was made, or if the conviction, sentence, order or declaration is brought under review or is appealed against, not later than the tenth day of the month following the month in which it is confirmed on review or appeal, as the case may be, transmit to *Umphatsi-Lukhetfo* a return in the prescribed form containing the prescribed particulars concerning that person.
- (3) The superintendent of every institution as defined in section 2 of the Mental Disorders Act [No. 28 of 1963](#), shall, not later than the tenth day of every month, transmit to *Umphatsi-Lukhetfo* a return in the prescribed form containing the prescribed particulars concerning every adult person who had been detained in the institution under an order of court declaring such a person to be mentally disordered or defective and was discharged during the previous month as a patient who had recovered.
- (4) Upon receipt of a return under subsection (1), (2) or (3), *Umphatsi-Lukhetfo* shall immediately forward copies thereof to every electoral officer except, in the case of a return submitted under subsection (1), the electoral officer by whom that return was transmitted.

## 10. Amendment of voters list by electoral officer

- (1) Subject to subsections (2), (3) and (4), the electoral officer shall, if he is satisfied as to the relevant facts, amend the voters list for any *Inkhundla* in the area for which he has been appointed, by—
  - (a) correcting any mistake, supplying any omission, or recording any change in the particulars of the registration of any person;
  - (b) after ascertaining by virtue of subsection (1)(a), that a person has ceased to be permanently resident in the *Inkhundla* in which he is registered, transferring subject to [section 6\(1\)\(b\)](#), his name to the supplementary voters list of the *Inkhundla* to which he has moved, or in the case of a person who has left Swaziland with the intention of not returning thereto, removing his name from the voters list;
  - (c) removing the name of any person who, according to a return or notification under [section 9\(1\)](#) or (4), is dead or disqualified for continuance of registration;
  - (d) restoring the name of any person referred to in paragraph (c) who has ceased to be disqualified;
  - (e) removing any superfluous entry where the name of the same person appears more than once in the voters list for more than one *Inkhundla*;
  - (f) removing the name of any person who is not a citizen of Swaziland or who is under the age of eighteen years, or who would otherwise not be qualified to be registered, should he complete an application for registration on the date of the removal;
  - (g) removing the name of any person in respect of whom an objection has been lodged under [section 13](#) and which has been upheld; or
  - (h) adding the name of any person which was wrongly omitted in the course of any registration in terms of [section 4](#).
- (2) An electoral officer shall not amend the voters list concerned in terms of subsection (1) from nomination day until polling day, both days inclusive:

Provided that if an electoral officer is satisfied that the name of any person has inadvertently been omitted or removed from a voters list, or has been inserted in the voters list for an *Inkhundla* other than that in which it should have been inserted and in which the said person is entitled to be registered, such electoral officer shall make the proper amendment to the voters list in relation to such omissions or removal or incorrect insertion, at any time up to four o'clock in the afternoon on the day seven days before polling day.
- (3) Before removing the name of any person from the voters list, or restoring or adding or adding it thereto, the electoral officer shall by such means as are practicable, satisfy himself that the name relates to the person concerned.
- (4) If under subsection (1) the electoral officer removes a name from a voters list which is not the name of a fictitious person or of a person who has died, he shall inform the person concerned by a notice in the approved Form No. 5 directed to the address of that person as shown on the voters list.
- (5) If the electoral officer has, in terms of subsection (1)(b), transferred the name of a voter to the voters list in respect of the *Inkhundla* to which he has moved, he shall inform the person concerned of the transfer by notice in the prescribed Form No.6 directed to the address to which he has moved.

## 11. How voters list amended

Whenever the electoral officer has decided to remove the name of any person from, or to restore or add the name of any person to, any voters list, or to correct any mistake or supply any omission therein, he shall make the requisite alteration in ink in his official copy of the voters list and, in the case of a removal,

restoration or addition, shall clearly indicate the same and state the reason for the alteration opposite the name removed, restored or added.

## 12. Copy of voters list to be kept for inspection

- (1) A copy of the voters list for an *Inkhundla* shall be kept for inspection by the public at the Regional Administration Offices and the Sub-Regional offices of every Region wherein that *Inkhundla* or any portion thereof is situated, and at the office of the electoral officer for the area in which that *Inkhundla* is situated.
- (2) Any person desiring to inspect or make copies of, or take extracts from, such voters list shall be entitled to do so without payment during office hours.

## 13. Objection

- (1) The inclusion or retention of any name in, the restoration or addition of any name to, and the removal of any name from, a voters list may be objected to by any voter at any time by lodging with the electoral officer for the *Inkhundla* concerned an objection in the approved Form No. 7 with a fifty cents revenue stamp affixed thereto.
- (2) When an objection is lodged under subsection (1) against the inclusion or retention of any name in, or the restoration or addition of any name to a voters list, the electoral officer shall (unless he is satisfied that the ground of objection is not a ground on which a name could be removed or excluded from a voters list) by registered post forthwith notify the person whose registration is objected to of the nature of the objection, and that he may make representation to the electoral officer in regard thereto, within a period of twenty-one days after the date of the notice.
- (3) When an objection has been lodged under subsection (1) the electoral officer shall, upon expiry of the of the period referred to in subsection (2), if that subsection applies, determine the objection.

## 14. Appeals

- (1) If any person—
  - (a) whose application has been disallowed, or
  - (b) who has objected to the removal of this name from a voters lists; or
  - (c) the inclusion or retention of whose name in, or the restoration of addition of whose name to a voters list has been objected to; or
  - (d) who has objected to the inclusion or retention of the name of any other person, in, its restoration or addition to, or its removal from, a voters list,is not satisfied with the decision of the electoral officer he may, within fourteen days of being notified of the decision, appeal to a magistrate, who shall decide the matter on the evidence on which the decision of the electoral officer is based, and on such further evidence as may be obtained by or submitted to him.
- (2) Subject to [section 15](#), the decision of the magistrate shall be final.

## 15. Statement of case for decision by judge

- (1) The magistrate shall, at the request of any person who has appealed under [section 14](#)(1) and is not satisfied with his decision, transmit a statement of the case to the registrar of the High Court to be submitted to a judge in chambers.
- (2) A statement referred to in subsection (1) shall be signed by the magistrate and by the party at whose request it is submitted.

- (3) The judge to whom the statement is submitted may, on application by *Umphatsi-Lukhetfo*, before considering the statement, order the party at whose request it is submitted to furnish security for any costs allowed against him, and if he fails to furnish such security, the statement shall be deemed to have been withdrawn from the decision of the judge.
- (4) The judge may, if the statement appears to him to be defective, call for further information and may give such decision and make such order as to costs he may think fit.
- (5) The registrar of the court shall forward to the magistrate, to the electoral officer, and to the party at whose request the statement has been submitted, a certified copy of the decision of the court.
- (6) There shall be an appeal to the Court of Appeal from any order or decision given by a judge under this section, but only with leave of the Court of Appeal.

## 16. When voters list to be printed

The voters list as prepared and amended from time to time in accordance with this Order, shall be printed not later than one month before every election in accordance with section 32 of the Establishment of Parliament of Swaziland Order, 1992.

## 17. Copies of printed voters list

As soon as a voters list for any *Inkhundla* has been printed, any person shall be entitled to obtain a reasonable number of copies of that voters list on payment of such charges and subject to such conditions as may be prescribed.

## 18. Comparison of voters list by *Umphatsi-Lukhetfo*

- (1) *Umphatsi-Lukhetfo* may cause the several voters lists to be compared for the purpose of ensuring that no person shall be registered in more than one *Inkhundla* and if, after due enquiry, he is satisfied that any person is registered more than once in the same *Inkhundla* or in more than one *Inkhundla*, he shall cause the name of that person to be removed from every register in which it should not appear.
- (2) [Section 10\(3\)](#) and (4) shall apply in connection with the removal of a name under subsection (1).

## 19. Powers of electoral officer

An electoral officer may by notice in writing at any time require any person whether registered or not, to furnish on the prescribed form or otherwise, and in the manner and within the period (not being less than ten days) specified in that notice, such particulars as may be prescribed or as the electoral officer may specify in the notice as to the identity, age, nationality, qualification by residence, or any other matter relevant to the registration of such person or of any other person.

## 20. Voters list not invalidated by reason of error

If through accident, inadvertance, or oversight, anything required by law to be done in preparation of any voters list is erroneously done or omitted to be done, the voters list shall not be invalidated thereby, and *Umphatsi-Lukhetfo* may take or cause to be taken such steps as are necessary to rectify the error or omission.

## 21. Offences and penalties

Any person who—

- (a) being an officer having any duty under this Order in connection with the registration of voters, wilfully or with gross negligence fails to perform that duty; or
- (b) wilfully makes any false statement in any application referred to in [section 6](#); or

- (c) under the name of any other person (whether living, dead or fictitious) signs an application for the registration of that person otherwise than in accordance with [section 6](#), or signs as a witness in respect of an application which has been so signed; or
- (d) procures the registration of himself or any other person (whether living, dead or fictitious) in any division, knowing that he or such other person is not entitled to registration in that division or is already registered therein; or
- (e) procures the removal from a voters list of the name of any person in the case where such person is entitled to have his name included in that voters list, unless such person is able to prove that such removal was not procured as a result of information furnished by him negligently;

shall be guilty of an offence and liable on conviction to a fine not exceeding five thousand emalangeneni, or imprisonment for a period not exceeding five years, or both.

### First Schedule

| Under Section | Forms and envelopes | Particulars   |
|---------------|---------------------|---|
| 5(6)          | 1                   | Certificate of registration of voter.                             |
| 5(7)          | 2                   | Application for registration as a voter.                          |
| 5(8)          | 3                   | Notification of rejection of application to register as a voter.  |
| 8(1)          | 4                   | Notification of change of voter's name or residence               |
| 10(4)         | 5                   | Notification of removal of voter's name from voters list.         |
| 10(5)         | 6                   | Notification of transfer of voter's name to another voter's list. |
| 13            | 7                   | Form of objection   |

*N.B. There is no Second Schedule*