



SWAZILAND GOVERNMENT GAZETTE EXTRAORDINARY

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PART B - KING'S PROCLAMATION

2. King's Proclamation to the Nation, 1973 S1

PUBLISHED BY AUTHORITY

DECREE NO. 2 OF 2001

KING'S PROCLAMATION TO THE NATION, 1973
(Proclamation of 12th April, 1973)

In exercise of the powers vested in me by the King's Proclamation to the Nation, 1973, I, **MSWATI III, THE KING OF SWAZILAND** hereby issue the following Decree-

Citation

1. This Decree may be cited as Decree No. 2 of 2001.

Supremacy of Proclamation

2. (1) It is re-affirmed that the King's Proclamation to the Nation, 1973 is the Supreme law of Swaziland and if any other law is inconsistent with the Proclamation, that other law shall, to the extent of the inconsistency, be null and void.

(2) It is further re-affirmed that the King may by Decree published in the Gazette, amend or repeal the Proclamation and any other law.

Appointment of Judges, the Attorney General e.t.c.

3. Judges, the Attorney-General, the Director of Public Prosecutions, the Deputy Attorney-General and the Deputy Director of Public Prosecutions shall continue to be appointed by the King and subject to any other law upon such terms and conditions as the King may determine on the advice of the Minister for Justice and Constitutional Affairs.

The Judicial Service Commission

4. (1) The Judicial Service Commission shall continue to be appointed in terms of the Judicial Service Commission Act, 1982 and shall perform the functions and duties prescribed in that Act.

(2) Parts 1 and 2 of Chapter IX of the Constitution (repealed with savings) shall be construed as if there is no reference to the Judicial Service Commission.

Powers of the Attorney-General

5. (1) The Attorney General shall be the principal legal adviser to the Ingwenyama, King, the Government and an ex officio member of Parliament and in exercising his powers or carrying out his functions, the Attorney-General may do so in person or be represented by any law officer or other person so authorised by him.

(2) All legal Advisors or Legal Officers in the Public Service shall be appointed in consultation with and be answerable to the Attorney-General.

- (3) There shall continue to be a Law Office which shall consist of the Attorney-General's Chambers and the Director of Public Prosecutions Chambers and the Attorney-General shall be in charge of the Law Office.

Appointment of special magistrates

6. (1) The Attorney General, in consultation with the Judicial Service Commission and the Minister responsible for Justice, may appoint or cause to be appointed, on such terms and conditions, law officers to be special magistrates from the Chambers of the Attorney General to assist the magistracy whenever there is a vacancy or a back-log of pending cases.

(2) The appointment of special magistrate under this section shall not be permanent in nature and the law officer so appointed shall retain the substantive post so held.

Protection of the name and actions of their Majesties

7. Subject to section 3 (2) of the Sedition and Subversives Activities Act, 1938 and any other law, a person who -

- (a) disobeys an order by Ingwenyama or King made under any law;
- (b) impersonates;
- (c) insults, ridicules or put into contempt;
- (d) allows, permits, accepts to be treated as or afforded the respect of or the status of.

the Ingwenyama or King or the Ndlovukazi in whatever way or form, commits an offence and on conviction, liable to a fine not exceeding fifty thousand Emalangeni (E50,000) or to imprisonment for a period not exceeding ten (10) years imprisonment or to both such fine and imprisonment.

Matters pending before the Ingwenyama or King

8. (1) A matter pending before the Ingwenyama or King shall not be enquired into by any person, institution or body once a certificate to that effect has been issued by the Attorney-General, or other person authorised for that purpose by the King, signifying that the matter is so pending before the King.

(2) A matter that has been concluded in contemplation of sub-paragraph (1) shall also be certified by the Attorney General or such other person indicating the verdict that has been made thereto and the manner of execution of that verdict.

Position of Chiefs

9. Matters relating to the appointment, removal and the exercise or functions of Chiefs shall continue to be regulated by Swazi Law and Custom and any law currently in force shall not be enquired into by a court of law.

Laws that have a constitutional bearing

10. (1) All Orders-in-Council and Acts of Parliament that would otherwise be invalid on the sole ground that they are inconsistent with the Proclamation are hereby validated to that extent, unless repealed or amended by this Decree or any other law.

(2) Notwithstanding any other law, all acts done by a Minister or a public officer in the discharge of any function or responsibility imposed by any law upon another Minister or public officer before the coming into operation of this Decree shall be deemed to have been validly done and no such act shall be questioned in any court solely on the grounds that it was done by the Minister or public officer.

Jurisdictional issues

11. Any section in law which provides for the exclusive jurisdiction of a court, other than for the High Court as a Court of first instance, in respect of a class or causes of action or disputes peculiar to that court, that section shall be construed as procedurally empowering that Court to be a court of first instance inclusive of its appellate jurisdiction.

Non bailable offences

12. Notwithstanding any provision of any law, a court shall refuse to grant bail to any person charged with-

- (i) murder;
- (ii) rape;
- (iii) armed robbery;
- (iv) contravention of section 11(8) of the Arms and Ammunition Act No.24 of 1964; (arms of war only)
- (v) contravention of section 8 of the Game Act No.51 of 1953;
- (vi) contravention of section 12 of the Pharmacy Act No.38 of 1929;
- (vii) contravention of section 6 of the Public Order Act of 1963;
- (viii) contravention of section 3(1) of the Theft of the Motor Vehicles Act, 1991;
- (ix) contravention of sections 4, 10, 11, 12, 13, 16 and 17 of the Public Order Act No.17 of 1963;
- (x) High treason ;
- (xi) contravention of sections 4 and 5 of the Sedition and Subversive Activities Act No.46 of 1938; or
- (xii) any other offence the Court may deem fit to refuse bail.

Proscription

13. (1) Where a magazine, book, newspaper or excerpt there of is proscribed in terms of the Proscribed Publications Act. 1968 the Minister concerned shall not furnish any reasons or jurisdictional facts for such proscription.

(2) No legal proceedings may be instituted in relation to such proscription.

Retirement of judges

14. Section 99 of the Constitution as reinstated by King's Proclamation to the Nation, 1973 is amended in subsection (5) by replacing the words "sixty two" with the words "sixty five".

Decree read as one with Proclamation

15. This Decree shall be read and construed as one with the King's Proclamation to the Nation of 12th April, 1973.

DONE UNDER MY HAND AT LOZITH'EHLEZI ON THIS 22ND DAY OF JUNE, 2001

MSWATI III
KING OF SWAZILAND

The Government Printer, Mbabane