

THE PUBLIC ORDER ACT, 2017

(Act No. 12 of 2017)



I ASSENT

MSWATI III  
KING OF SWAZILAND

8<sup>th</sup> August, 2017

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AN ACT  
ENTITLED

AN ACT to promote and protect public order, public health, public safety and public morals; to give effect to the fundamental rights of freedom of peaceful assembly, association and freedom of expression embodied in the Constitution of the Kingdom of Swaziland and to provide for incidental matters.

ENACTED by the King and the Parliament of Swaziland.

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5. Section 28 of the Principal Act is amended by replacing subsection (6) (e) with the following new subparagraph -

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**PART I**  
**PRELIMINARY PROVISIONS**

*Short title and commencement.*

1. This Act may be cited as the Public Order Act 2017, and shall come into force on a date to be determined by the Minister by notice in the Gazette.

*Interpretation.*

2. (1) In this Act, unless the context otherwise requires –

“Code of Good Practice” means the Code of Good Practice to be issued by the Minister in terms of section 28(1) of this Act;

“Constitution” means the Constitution of the Kingdom of Swaziland Act No. 001 of 2005;

“convenor” means any person –

(a) appointed as convenor in accordance with section 4; or

(b) deemed to be a convenor in accordance with section 5.

“day” means any day other than a Saturday, Sunday or public holiday;

“event” means any assembly, concourse or procession of 50 or more people in a public place which is held exclusively for cultural, recreational, charitable, religious, professional, trade or similar purposes;

“gathering” means any assembly, concourse or procession of 50 or more people in a public place –

(a) at which the principles, policy, actions or failure to act of any government or organisation are discussed, attacked, criticized, promoted or propagated; or

(b) convened or held to form pressure groups, to hand over petitions to any person, or to mobilize or demonstrate support for or opposition to the views, principles, policy, actions or omissions of any person, organisation or institution, including any government, administration or governmental institution,

and, for the avoidance of any doubt, shall include any assembly, concourse or procession contemplated in this paragraph that is carried out as part of a picket or protest action;

“Government” means the government of the Kingdom of Swaziland;

“independent monitor” means a person or organisation whose purpose or one of whose purposes is to observe and record the actions and activities taking place at public gatherings;

“local authority” means a Municipal Council, Town Council, Town Board or other organ of local government duly established under the Urban Government Act No. 008 of 1969 or its successor, or under any other law, having jurisdiction in the area in which a gathering is to be held.

"Minister" means the Minister responsible for national security and the Police Service; and

"NatCom" means the Commissioner of Police appointed in terms of section 189 of the Constitution herein referred to as NatCom (National Commissioner of Police);

"national insignia or other emblem" means a weaving, embroidery, sewing, crochet, drawing, picture, illustration, painting, film negative, photograph, print, engraving or lithograph, woodcut, cast figure, carving, statue, plaque, model or other similar representation or thing which depicts or which purports to depict -

(a) His Majesty;

(b) the Ndlovukati;

(c) the Swaziland Flag or Royal Standard;

(d) the Swaziland Coat of Arms; or

(e) any other item of special cultural or traditional identity or significance;

"notice" means notice of an intended gathering as contemplated in section 6;

"offensive weapon" means any article made or adapted for use to cause injury to any person;

"organisation" means -

(a) a body corporate; or

(b) any other group or body of persons, whether or not such group or body has been incorporated, established or registered in accordance with any law, having the common purpose of convening or holding a gathering;

"person" means a natural or artificial person and, unless the context indicates otherwise, includes an organisation;

"picket" means picketing as contemplated in S107 of the Industrial Relations Act, No. 001 of 2000;

"police" means the Police Service;

"Police Service" means the Royal Swaziland Police Service established in terms of the Constitution of the Kingdom of Swaziland and the Police Act;

"police officer" means a member of the Police Service;

"Principal Magistrate" means a Principal Magistrate of the region in which a gathering is to be held;

"procession" means a gathering that moves from one place to another;

"protest action" shall have the same meaning as ascribed to it by the Industrial Relations Act No. 001 of 2000, as amended.

"public place" means a street, square, park, recreation ground, garden, commonage or open space of a local authority-

(a) which is vested by the deed of title or in terms of section 67 (1) of the Urban Government Act, its successor or by any law in the local authority for the use and benefit of the public; or

(b) which the public has the right to use without charge;

"riot damage" means any loss suffered as a result of any injury to or death of any person, or any damage to or destruction of any property, caused directly or indirectly by, and immediately before, during or after, the holding of a gathering;

"Sergeant" means a non-commissioned officer of the police as defined in the Police Act or other relevant law; and

"spontaneous gathering" means a gathering

(a) which is convened or held as an immediate response to an occurrence that could not reasonably have been foreseen by those convening or holding the gathering; and

(b) in respect of which notice of at least 48 hours\*, as contemplated in section 6, was not given.

(2) Any person applying this Act shall interpret its provisions -

(a) to give effect to the objects of the Act;

(b) in compliance with the Constitution;

(c) in compliance with the public law obligations of the Kingdom of Swaziland; and

(d) in accordance with the Code of Good Practice;

(3) A reference in this Act to an Act of Parliament shall include a reference to any future Act of Parliament replacing such Act.

## PART II PUBLIC GATHERINGS

### *Right to assemble peacefully.*

3. (1) A person has the right to assemble peacefully in a public place in compliance with this Act and all other laws of Swaziland.

(2) Notwithstanding subsection (1), a gathering may not be held in any building in which a courtroom or a national or local representative organ of state is situated, or within hundred (100) metres' radius of such building, unless written permission has been obtained from a Principal Magistrate.

*Appointment of convenor.*

4. (1) An organisation intending to hold a gathering shall as soon as possible, but no later than four days before the commencement of the gathering, appoint –

(a) a convenor to perform the functions and discharge the responsibilities assigned to a convenor under this Act; and

(b) a deputy to a person appointed in terms of subsection (1)(a).

(2) If a person appointed in terms of this section becomes unable to perform or to continue to perform any function in terms of this Act, the organisation which appointed such person shall immediately appoint another person to perform such function, and the person so appointed shall be deemed to have been appointed under this section.

*Persons deemed convenors.*

5. If an organisation has not appointed a convenor as required by section 4, any person who has on behalf of an organisation taken a leadership role in planning or organizing a gathering, or inviting members of the public to attend a gathering, shall be deemed to be a convenor of that organisation.

*Notice of gatherings.*

6. (1) The convenor of a gathering shall as soon as possible but not later than four days before the date of the intended gathering deliver by hand to the local authority written notice of the gathering, signed by the convenor, in accordance with the provisions of this section and substantially in the form set out in Schedule I.

(2) A convenor who is unable to give notice within the time limit contemplated in subsection 1 shall give notice at the earliest opportunity but not later than 48 hours before the commencement of the gathering.

(3) A convenor who gives less than four days' notice of the gathering shall provide reasons for not having been able to comply with the required time limit.

(4) Notification required under this section shall not apply to a spontaneous gathering or to an assembly, concourse or procession of fewer than 50 people.

(5) If a local authority does not exist or is not functioning in an area where a gathering is to be held, the convenor shall give notice as contemplated in this section to the Regional Administrator in the region where the gathering is to take place.

(6) A notice shall specify –

(a) the name, address, telephone, facsimile number(s), and email address of the convenor and the convenor's deputy, if available;

(b) the name of the organisation or branch under the auspices of which the gathering is convened;

(c) the date, time, duration and location of the gathering;

(d) in the case of a gathering in the form of a procession –

- (i) the exact and complete route of the procession;
- (ii) the time when and the place at which participants in the procession are to assemble, and the time when and the place from which the procession is to commence; and
- (iii) the time when and the place where the procession is to end and the participants are to disperse.

(7) If a local authority receives information, whether from the police or otherwise, regarding an intended gathering of which notice was not given within the time limit specified in section 6(1) the local authority may take such steps as it deems necessary, including enlisting the assistance of the police, to establish the identity of the organiser, and the local authority may direct the organiser to provide notice of the gathering on a date and at a time determined by the local authority.

*Notice of concerns or objections.*

7. (1) Any person who may be affected by an intended gathering may deliver to a local authority written notice of concerns or objections to the gathering.

(2) A notice contemplated in subsection (1) may concern any matter contemplated in section 8 (8) (a) (i) to (x).

*Consultation, amendments of notices, conditions etc.*

8. (1) A local authority that receives at least four days' notice of an intended gathering shall immediately determine, in consultation with the police, whether it is necessary to consult, as contemplated in this section, on –

- (a) any amendments to be made to the notice;
- (b) any conditions to be attached to the conduct of the gathering;
- (c) the prohibition of the gathering; or
- (d) any other arrangements to ensure the protection of the interests of public order, public safety, public health or public morals, or to ensure that the rights and freedoms of those who live, work, shop, trade and carry on business in the locality of the gathering are not unduly restricted

(2) For the purposes of subsections (1), (17) and (18) a gathering shall not be considered to unduly restrict the rights and freedoms of those who live, work, shop, trade and carry on business in the locality of the gathering, if the gathering does not restrict such rights and freedoms more than is necessary to achieve the legitimate objects of a gathering.

(3) If the local authority in the circumstances contemplated in subsection (1) determines that it is necessary to consult as required by this section, the local authority shall as soon as possible but not less than two days before the date of the intended gathering invite the parties contemplated in subsection (4) to a consultation meeting to take place on a date not less than one day before the date of the intended gathering.



(4) The parties to be invited to a consultation meeting shall be -

- (a) the convenor;
- (b) the police; and
- (c) any other interested party, including an objector referred to in section 7, that ought in the opinion of the local authority to be present at the meeting.

(5) At the meeting the consulting parties shall consult on each of the matters specified in subsection (1) (a) – (d).

(6) In any consultation contemplated in this section the consulting parties shall have regard to the Code of Good Practice.

(7) At the conclusion of the consultation process the local authority –

- (a) shall, if on reasonable grounds it considers it necessary for the protection of the interests of public order, public safety, public health or public morals, or to ensure that the rights and freedoms of those who live, work, shop, trade and carry on business in the locality of the gathering are not unduly hindered, and having regard to the views of the consulting parties, including those of any objectors, and the requirements of the Code of Good Practice –
  - (i) make any amendments to a notice;
  - (ii) determine the conditions to be attached to the conduct of a gathering;
  - (iii) make any other arrangement, by agreement with the parties, to ensure the protection of public order, public safety, public health and public morals;
- (b) may prohibit a gathering on the grounds and subject to the requirements set out in section 9; or
- (c) shall unless it has prohibited the intended gathering as contemplated in paragraph (b) –
  - (i) issue a Compliance Certificate in the form set out in Schedule 2, certifying that the convenor has consulted in compliance with this Act, and shall furnish the convenor and the NatCom with a copy of the Compliance Certificate;
  - (ii) effect any amendments to the notice made in terms of subsection (7) (a) (i) and attach to the amended notice any conditions determined in terms of subsection (7) (a)(ii) and thereafter furnish the convenor, the NatCom and any other person that was party to the consultation process with a copy of such notice and attachment.

(8) A condition or arrangement contemplated in this section -

- (a) may relate to –
  - (i) the management and stewarding of the gathering, the appointment of marshals and the number and duties of marshals;

- (ii) the behaviour of the participants;
- (iii) the behaviour of non-participants;
- (iv) the commencement times of a gathering;
- (v) dispersal times of a gathering;
- (vi) the location of a gathering;
- (vii) the route of a procession and the manner in which the participants may proceed along any public road, which may include a stipulation that the participants may not come to a standstill or sit down during a procession on a public road;
- (viii) the number of participants;
- (ix) the duration of the gathering; or
- (x) any other matter that the local authority considers appropriate to ensure the maintenance of public order, public safety, public health and public morals and the rights and freedoms of persons not participating in the gathering;

(b) may not relate to the religion or belief to be professed, or thoughts or feelings to be expressed, unless such professions or expressions are contrary to law.

(9) Any amendments, conditions, prohibition or arrangement contemplated in subsection (7) shall be –

- (a) in accordance with the provisions of this Act;
- (b) necessary to achieve the legitimate aims of national security, public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others; and
- (c) proportionate to the harm to national security, public health or morals or the rights and freedoms of others that is sought to be avoided.

(10) A condition may refer to, and require compliance with, a specified provision in the Code of Good Practice.

(11) If the local authority is unable, before the conclusion of a consultation meeting contemplated in this section, to finalize the amendments or conditions contemplated in subsection (7) (a) (i) and (ii), or arrangements contemplated in subsection (7) (a) (iii), it may finalise such amendments and conditions and make such arrangements and approve the notice as soon as possible after the conclusion of the meeting but not later than 2 days before the date of the intended gathering.

(12) If a convenor has given notice within the time limit contemplated in section 6(1) and where it has been determined by local authority that a consultation meeting is necessary, the local authority has not within two days of receipt of such notice invited the convenor to a consultation meeting contemplated in this section, the convenor may deliver by hand to the local authority a demand, in the form set out in Schedule 3, to convene a consultation meeting

within 48 hours of delivery of the demand to the local authority.

(13) If the local authority fails invite the convenor to a consultative meeting or to comply with a demand contemplated in subsection (12), the convenor shall be deemed to have complied and shall have a right to hold a gathering in the absence of a compliance certificate.

(14) If a convenor fails to attend a consultation meeting contemplated in this section the local authority shall consult with such parties that do attend and may thereafter on the grounds and subject to the requirements set out in subsection (7) make any amendments to the notice, determine any conditions to be attached to the conduct of the gathering, or prohibit the gathering.

(15) In circumstances where a convenor has given notice within the time periods contemplated in section 6(1) a local authority may not make any amendments to a notice, or attach any conditions to the conduct of the gathering, or prohibit the gathering, without consulting the convenor as required by this section.

(16) If a local authority receives less than four days' notice of an intended gathering and considers it necessary to consult in order to achieve the purposes contemplated in subsection (1) it shall use its best efforts to consult with the convenor and the other consulting parties.

(17) A local authority may thereafter, with or without consultation, and only on the grounds and subject to the requirements contemplated in subsection (7) (a) –

- (a) make any amendments to the terms of a notice; and
- (b) determine the conditions to be attached to the conduct of a gathering; or
- (c) prohibit a gathering.

(18) If a local authority is, in the circumstances contemplated in subsections (16), satisfied that it has been able to consult adequately and that it has been able through such consultation to ensure that the interests of public order, public safety, public health and public morals are protected, and that the rights and freedoms of those who live, work, shop, trade and carry on business in the locality of the gathering are not unduly restricted, it shall issue the convenor with a Compliance Certificate contemplated in subsection (7)(c)(i) and provide a copy to the police.

(19) If a convenor has not received a notice of prohibition or a compliance certificate even though he served a notice on time, the convenor retains a right to proceed with a gathering.

***Prohibition of an intended gathering.***

9. (1) A local authority may, subject to subsections (3), (4), (5) and (6), prohibit an intended gathering, whether or not such gathering is in compliance with this Act, if the local authority has reason to believe that the gathering will endanger the maintenance of public order, public safety or public health.

(2) The NatCom may, subject to subsections (3), (4), (5) and (6), prohibit an intended gathering, whether or not such gathering is in compliance with this Act, if the NatCom has reason to believe that the gathering will endanger the maintenance of public order and public safety.

(3) Any prohibition of a gathering contemplated in subsections (1) and (2) shall be –

- (a) in accordance with the provisions of this Act;
- (b) necessary to achieve the legitimate aims of national security, public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others; and
- (c) proportionate to the harm to harm national security, public order, public health or morals or the rights and freedoms of others that is sought to be avoided.

(4) The failure to give notice of a gathering as required by this Act, or to obtain a Compliance Certificate contemplated in section 8, shall not either individually or in combination, constitute a sufficient ground to prohibit a gathering under subsections (1) and (2).

(5) Notwithstanding anything to the contrary in this section, an intended gathering may not be prohibited unless the local authority or NatCom is satisfied on reasonable grounds, and having regard to the views of the convenor and other consulting parties, that no amendment, condition or arrangement contemplated in section 8 (7) (a) (i)-(iii), whether such amendment, condition or arrangement is already in place or could be made in due course, would prevent the threats contemplated in subsection (1) or (2), as the case may be.

(6) If an intended gathering was the subject of consultation as contemplated in section 8(3), and was not prohibited during or at the conclusion of such process, such gathering may not thereafter be prohibited unless there has been a material change in the circumstances warranting the prohibition.

(7) A local authority or the NatCom officer may at any time revoke its prohibition of an intended gathering if it is satisfied that, due to changed circumstances, the prohibition is no longer warranted.

(8) If a local authority or the NatCom prohibits an intended gathering as contemplated in this section, the local authority or NatCom, as the case may be, shall give notice of the prohibition to the convenor at the earliest opportunity and sufficiently in advance of the date of the proposed gathering to allow the decision to be the subject of a review as contemplated in section 10.

(9) The notice of prohibition shall be accompanied by brief reasons in writing for the prohibition.

***Review of acts or omissions of local authority or NatCom.***

10. (1) A convenor or organiser who is aggrieved by –

- (a) a decision of a local authority to amend a notice, or to attach conditions to the conduct of a gathering;
- (b) a decision of a local authority or the NatCom to prohibit a gathering; or
- (c) the failure of a local authority to issue a Compliance Certificate as required by this Act,

may apply to the Principal Magistrate of the district in which the gathering is to be held for the setting aside of the amendment, condition or prohibition, or for an order compelling the issue of a Compliance Certificate.



(2) The applicant shall briefly set out the grounds upon which the order is sought and any other information that may assist in determining the application and shall serve a copy of the application upon the local authority or NatCom, as the case may be.

(3) An applicant may, with any notice of application contemplated in subsection (1), request written reasons or, if written reasons have been provided, further and better reasons from the local authority or the NatCom, as the case may be, for any decision to amend a notice of a gathering, attach conditions to the holding of a gathering, or prohibit a gathering.

(4) The local authority or NatCom shall, as soon as possible but not later than 48 hours after receiving the request, deliver written reasons for its decision to the applicant.

(5) The Principal Magistrate may, in compliance with the principles of natural justice, determine any process for the expeditious hearing of the application that the Principal Magistrate considers appropriate, having regard to the need to determine the application, if reasonably possible, before the date of the proposed gathering.

(6) After considering the application the Principal Magistrate may confirm, set aside or vary any amendment, condition or prohibition, compel a local authority to issue a Compliance Certificate, and may grant any other appropriate relief.

(7) The Principal Magistrate shall give brief reasons for a determination made under subsection (6).

(8) Any person may, by means of an urgent application in accordance with the Rules of the High Court, appeal against any order made by a Principal Magistrate in terms of this section.

(9) Nothing in this section shall preclude any party from applying directly to the High Court on an urgent basis for a review of any decision of a local authority or the NatCom contemplated in this section.

(10) In any proceedings contemplated in subsection (1) or (9) a person adjudicating the review shall take into account the impact that any failure to provide notice within the time period contemplated in section 6(1) has had on the ability of the local authority or police, as the case may be, to properly discharge their responsibilities under this Act.

(11) A Principal Magistrate contemplated in this section may in writing delegate the powers conferred under this section to a magistrate of not less than five years' standing.

(12) The Minister may by regulation publish rules for the conduct of proceedings under this section and the provisions of such regulations shall replace the provisions of subsections (2) to (5).

***Responsibilities and powers of the police during a gathering.***

11. (1) In respect of any gathering, the police shall be responsible for –

- (a) protecting and promoting the constitutional rights to freedom of peaceful assembly and association, freedom of expression, freedom of movement, freedom from arbitrary arrest, and impartiality in the administration of the law;

- (b) ensuring that the right to freedom of peaceful assembly is exercised with due regard to the interests of public order and public safety.
- (c) enforcing the provisions of this Act with due regard to the requirements of the Code of Good Practice.

(2) A police officer may direct or control a gathering, or otherwise intervene in the conduct of a gathering, only –

- (a) on the grounds set out in this section; and
- (b) where the failure to do so would create an immediate danger to the maintenance of public order or public safety.

(3) Any action by a police officer contemplated in this section that has the effect of restricting the right to freedom of peaceful assembly enshrined in section 3, including any prevention of a gathering contemplated in subsection (4) and any dispersal of a gathering contemplated in subsection (8), shall, in addition to complying with the applicable requirements of this section, be –

- (a) necessary to achieve the legitimate aims of national security, public safety, public order, the protection of public health or morals or the protection of rights and freedoms of others; and
- (b) proportionate to the harm to national security, public health or morals or the rights and freedoms of others that is sought to be avoided.

(4) A police officer may –

- (a) on the instructions of the NatCom prevent the holding of a gathering that is prohibited under this Act by causing access to any public place or places to be barred or closed to any person or class of persons for such time as may be necessary to prevent the gathering from taking place;
- (b) ensure that persons participating in any gathering adhere to the terms of the notice and to any conditions that may be attached to the gathering;
- (c) in circumstances where a local authority has not issued a Compliance Certificate as contemplated in this Act and the police officer considers it necessary in the interests of public order or public safety, or to prevent the unreasonable infringement of the rights and freedoms of those who live, work, shop, trade and carry on business in the locality affected by the gathering, restrict the gathering to a place, or guide the participants along a route, to ensure that –
  - (i) vehicular or pedestrian traffic is not unduly disrupted;
  - (ii) access to property and to workplaces is not unduly impeded;
  - (iii) injury to persons or damage to property is avoided; and
  - (iv) generally, the maintenance of public order and public safety is assured.

- (d) prevent any person from engaging in conduct that constitutes an offence under section 15 of this Act or under any other law, or that threatens public order or public safety;
- (e) require any person to remove any item which the police officer reasonably believes that person is wearing wholly or mainly for the purposes of concealing that person's identity;
- (f) negotiate with any person or persons in order to achieve any of the objectives contemplated in paragraphs (a) to (e) and enlist the assistance of marshals or external mediators to assist in such negotiations; or
- (g) issue such orders as may be necessary to achieve the purposes contemplated in paragraphs (a) to (e).

(5) A police officer may, subject to subsection (7), and without a warrant, arrest any person participating in a gathering who –

- (a) commits an offence contemplated in section 15(2); or
- (b) otherwise acts in a manner that is calculated or likely to cause a breach of public order or public safety.

(6) Nothing in this section shall be construed as depriving a police officer of the powers of arrest otherwise granted to such police officer under any other law.

(7) The police officer shall, before exercising the power of arrest under this section, take necessary measures to ensure voluntary compliance by the offender.

(8) If a police officer above the rank of Sergeant has reasonable grounds to believe that any gathering in progress poses a direct and immediate threat to public order or public safety and that the threat cannot be adequately contained by measures short of the dispersal of the gathering, including the measures contemplated in subsections (4) and (5), the police officer may order all persons participating in the gathering to disperse within a specified time which shall be reasonable in the circumstances.

(9) If within the time so specified the persons participating in the gathering have not dispersed or commenced dispersing, the member of the police contemplated in subsection (8) may order those under the command of such member to disperse the gathering.

(10) Any force used in the dispersal of the gathering shall not be greater than is necessary to secure the dispersal of the gathering and shall be proportionate to the circumstances of the case and the object to be attained.

(11) A police officer not in uniform and exercising powers under this section shall, upon request by a convenor, organiser, or by any person being placed under arrest in terms of subsection (5), furnish such convenor, organiser or person being placed under arrest with appropriate police service identification.

(12) The Code of Good Practice shall provide further guidelines for the policing and dispersal of public gatherings.

***Responsibility of organisers and convenors during a gathering.***

12. (1) The organiser and convenor of a gathering shall –

- (a) co-operate fully with the local authority and the police regarding the planning of measures for the maintenance of order at the gathering;
- (b) co-operate with the police to ensure that the participants in a gathering comply with the law, and with the terms of any notice, as may have been amended by a local authority, and with any condition attached to the holding of a gathering.

(2) The Code of Good Practice shall provide further guidelines with respect to the responsibilities and powers of an organiser and convenor prior to and during a gathering.

***Liability for certain acts during a gathering.***

13. A person participating in a gathering who wrongfully causes loss to any other person shall be liable to such person under the civil and criminal laws of the land.

***Monitoring gatherings.***

14. (1) Subject to subsection (2), the right of the media and of independent monitors to observe public gatherings and report thereon shall be respected and upheld by –

- (a) the police;
- (b) the local authorities; and
- (c) the convenor and organiser of a gathering, and the participants in a gathering.

(2) A police officer may not prevent or obstruct the lawful activities of journalists or independent monitors during public gatherings.

(3) Any person may make a video or audio recording of a gathering and the seizure of technical equipment, as well as video and audio recordings of gatherings, shall only be confiscated in accordance with the law and not arbitrarily.

(4) Nothing in this section shall be construed as exempting the media or an independent monitor from complying with any law, any lawful instructions from the police and emergency services, the terms of any notice, as may have been amended by the local authority, any condition attached to the holding of a gathering, and any provision of the Code of Good Practice.

(5) The Code of Good Practice may provide further guidelines regulating the observation of public gatherings by the media and by independent monitors.

***Offences in relation to gatherings.***

15. (1) A person or an organisation that fails to provide at least forty eight (48) hours' notice for a gathering, other than a spontaneous gathering, commits an offence and shall upon conviction be liable to pay a fine not exceeding ten thousand (E10 000.00) Emaŋangeni.

(2) Any person who –



- (a) intentionally supplies false information for the purposes of this Act; knowingly participates in a gathering that has been prohibited under this Act; or
- (b) knowingly contravenes, or fails to comply with, the terms of a notice, any amendments thereto, and any conditions attached to the holding of a gathering,

commits an offence and shall on conviction be liable to a fine not exceeding ten thousand E10,000.00 Emalangeni.

(3) Any person participating in a gathering who –

- (a) knowingly fails to comply with an order of a police officer or with any steps taken by a police officer under section 11;
- (b) uses threatening, insulting or abusive words or behaviour, or displays anything or does any act, with intent to provoke public disorder or by which a breach of the public order is likely to be occasioned, provided that a legal and peaceful strike shall not be considered to be intended to provoke public disorder or to be a breach of public order;
- (c) incites by way of the display of banners or placards, or by way of speech or song, or by similar means, hatred of other persons or groups on account of differences in nationality or national origin, culture, language, religion, race or gender;
- (d) incites by way of the display of banners or placards, or by way of speech or song, or by similar means, violence against any person or group of persons;
- (e) without lawful cause, is in possession of, or has control over, any firearm or offensive or dangerous weapon, or any ammunition, incendiary material or explosive or any other item which the Minister may by regulation declare a prohibited item;
- (f) wrongfully causes injury to any person or damage to any property, or loots shops or vendor property;
- (g) trashes, burns, or otherwise destroys, defaces, defiles, or damages, any national insignia or emblem;
- (h) incites hatred or contempt against the cultural and traditional heritage of the Swazi Nation; or
- (i) hinders, interferes with, obstructs or resists a police officer, convenor, monitor, marshal, or any other person exercising functions under this Act, in the exercise of their powers or the performance of their duties under this Act,

commits an offence and shall on conviction be liable to imprisonment for a period not exceeding two years or to a fine not exceeding ten thousand E10,000.00 Emalangeni or to both.

**PART III**

**PROHIBITION OF PUBLIC EVENTS**

***Prohibition of events.***

16. (1) If the NatCom has reason to believe that public disorder is likely to arise at or on the occasion of an event, the NatCom may, by notice addressed to the promoter, organizer or manager of the event, prohibit the event.

(2) The prohibition of an event or a dispersal of people attending an event under this section shall be –

- (a) in accordance with the provisions of this section;
- (b) necessary to achieve the legitimate aims of national security, public order, the protection of public health or morals, or the protection of the rights and freedoms of others; and
- (c) proportionate to the harm to national security, public order, public health or Morals, or the rights and freedoms of others that is sought to be avoided.

(3) A notice under subsection (1) shall be served on the person, or one of the persons promoting, organizing or managing the event at the earliest opportunity and sufficiently in advance of the date of the proposed event to allow the decision to be the subject of a review as contemplated in subsection (6).

(4) Any police officer may give or issue such orders and use only such force as may be necessary to prevent the holding or continuance of an event in respect of which a notice has been issued under subsection (1) and disperse those attending the event.

(5) Subject to subsection (2), any police officer, who has reason to believe that public disorder or an emergency has arisen during an event, may issue such orders and use such force as may be necessary and proportional to the threat to public order.

(6) Any person who is aggrieved by a decision of the NatCom to prohibit an event as contemplated in this section may apply to the Principal Magistrate of the district in which the event is to take place for setting aside of the decision and the provisions of section 10(2) to (11), shall apply with necessary changes required by the context.

**PART IV**

**PUBLIC ORDER OFFENCES**

***Possession of firearms to prejudice public order.***

17. (1) Any person who, without reasonable excuse, carries or is in possession or control of any firearm or other offensive weapon, any ammunition, incendiary material or explosive, in circumstances which raise a reasonable presumption that the firearm or other offensive weapon, ammunition, incendiary material or explosive is intended to be used or has recently been used in a manner or for a purpose prejudicial to public order commits an offence, and unless such person proves a contrary intention, that person shall be liable on conviction to imprisonment not exceeding five years or a fine of twenty five (E25,000.00) Emalangeni.

(2) Any person who consorts with or is found in the company of another person who, in contravention of subsection (1), is carrying, or is in possession or control of any firearm or other offensive weapon, or any ammunition, incendiary material or explosive, in circumstances which raise a reasonable presumption that such person intends to act, or has recently acted, with that other person in a manner or for a purpose prejudicial to public order, shall, unless such person proves a contrary intention, and shall be liable on conviction to the penalty referred to in subsection (1).

***Sabotage.***

18. (1) A person shall not wilfully and unlawfully destroy or damage, or do an act with intent to, or knowing it to be likely that the act will, impair the usefulness or efficiency or prevent or impede the working of any property used or intended to be used -

- (a) in the service of His Majesty the King, the Government, or a local authority;
- (b) for the purposes of an airport or air service or a supply of water or electricity to any person or community of persons; or
- (c) in the performance of any other service essential to the life of the community.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to imprisonment -

- (a) for a maximum period of life if the offence was committed with intent to endanger life or with the knowledge that it is likely to endanger life; or
- (b) not exceeding five years in any other case.

***Intimidation and harassment.***

19. (1) A person shall be deemed to intimidate another person or class of persons if with intent to compel or induce such person or class of persons to do or abstain from doing any act or to assume or to abandon a particular standpoint causes or threatens to cause unlawful injury to the person, reputation or property of that person or anyone in whom that person is interested.

(2) A person shall be deemed to harass another person if, with the intent mentioned in subsection (1) such person -

- (a) dissuades or attempts to dissuade, by whatever means, anyone from entering or approaching or dealing at any premises at which that person carries on trade or business or works, or otherwise from dealing with that person, or with any person by whom that person is employed, in the course of such person's trade or business;
- (b) watches and besets any premises where that person resides or works or carries on trade or business or happens to be, or the approaches to those premises;
- (c) persistently follows that person or anyone in whom that person is interested from place to place; or
- (d) interferes with any property owned or used by such person or anyone in whom that person is interested, or deprives such person or such other person of or hinders such person or such other person in the use of such property.

(3) Subsection (2) shall not apply to peaceful picketing which is carried out for lawful purposes.

(4) A person who contravenes this section commits an offence and shall be liable on conviction to imprisonment not exceeding three years or to a fine of fifteen thousand E15, 000.00. Emalangeni or to both.

***Notified Liabilities.***

20. (1) The Minister may, by notice in the Gazette, order that any tax, rate, rent, charge, fee or other money legally due or payable to the Government or to a local authority, or any class or arrears thereof, shall be a notified liability.

(2) Subject to the provisions of subsection (3) a person who-

- (a) instigates in any manner or by whatever means, expressly or by implication, any person or class of persons not to pay or to defer payment of a notified liability; or
- (b) does an act with intent or knowing it to be likely that any person or class of persons will be instigated by it not to pay or to defer payment of a notified liability,

commits an offence and shall be liable on conviction to imprisonment not exceeding three years or to a fine of fifteen thousand E15,000.00 Emalangeni.

(3) Subsection (2) shall not extend to advice given privately and in good faith by one person to another person with regard to the liability under the law of the last-mentioned person to pay any notified liability.

***Destruction of statutory documents and national flag and insignia.***

21. (1) A person who knowingly and without lawful authority or excuse, destroys, mutilates, defaces, or alters any statutory document, or destroys or defaces the National Coat of Arms or the National Flag, commits an offence and shall be liable on conviction to imprisonment not exceeding one year or to a fine not exceeding five thousand E5, 000.00 Emalangeni or to both.

(2) A person who instigates in any manner or by whatever means, expressly or by implication, any person or class of persons to commit any one or more of the acts contemplated in subsection (1), commits an offence and shall be liable on conviction to imprisonment not exceeding one year or to a fine not exceeding five thousand E5, 000.00 Emalangeni or to both.

***Prohibition of organizations equipped to usurp functions of the police.***

22. (1) Subject to this section, every member or adherent of an organisation or association of persons, whether incorporated or not, shall be guilty of an offence and liable on conviction to a fine not exceeding two thousand E2,000.00 Emalangeni or to imprisonment not exceeding six months, or both, if such members or adherents are -

- (a) organized or trained or equipped for the purpose of enabling them to be employed in usurping the functions of the police or the armed forces; or
- (b) organised and trained or organized and equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they

are organized and either trained or equipped for that purpose.

(2) Any person who promotes or conspires with another person to promote, or takes part in the control or management of or in so organizing or training or equipping a member or adherent of such association, commits an offence and shall be liable on conviction to imprisonment not exceeding three years or to a fine not exceeding fifteen thousand E15, 000.00 Emalangeni or to both.

(3) In any proceedings against a person charged with the offence of taking part in the control or management of such association, it shall be a defence to the charge to prove that that person neither consented to nor connived in the organizing, training or equipment of members of the association in contravention of this section.

(4) Where, upon application by the Director of Public Prosecutions, it appears to the High Court that an organisation or association is an organisation or association of which the members or adherents are organized, trained or equipped in contravention of this section, the court may -

- (a) make such order as appears to it necessary to prevent any disposition of property held by or for such association without the leave of the court;
- (b) direct an inquiry and report to be made as to any such property and as to the affairs of such association;
- (c) make such further orders as appear to the court to be just and equitable for the application of that property in or towards -
  - (i) the discharge of the liabilities of such association lawfully incurred before the date of application or, with the approval of the court, since that date;
  - (ii) repayment of money to persons who, in good faith, became sub-scribers or contributors to such association and without knowledge of such a contravention; or
  - (iii) payment of any costs incurred in connection with such an inquiry and report or in winding up or dissolving such association;
- (d) order the forfeiture to the Government of any property not directed by the court to be so applied.

(5) In any criminal or civil proceedings under this section proof of things done or of words written, spoken or published (whether or not in the presence of a party to the proceedings) by a person taking part in the control or management of an association or the organization, training or equipment of members or adherents of an association shall be admissible as evidence of the purposes for which or the manner in which members or adherents of such association (whether those persons or others) were organized or trained or equipped.

(6) If a judicial officer is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this section has been committed and evidence of its commission is to be found at any premises or place specified in the information, such judicial officer may, upon an application made by a police officer above the rank of Sergeant, grant a search warrant authorizing the police officer named in the warrant, together with any other persons named in the warrant and any other police officers -

- (a) to enter the premises or place at any time within one month from the date of such warrant, if necessary by force;
  - (b) to search the premises or place and, subject to subsection (8), every person found there; and
  - (c) seize anything found on the premises or place, or on such person, which the officer has reasonable ground for suspecting to be evidence of the commission of such an offence.
- (7) This section shall not be construed as prohibiting -
- (a) the employment of persons as marshals to assist in the preservation of order at a public gathering; or
  - (b) the making of arrangements for that purpose or the instruction of the persons to be so employed in their lawful duties as marshals, or their being furnished with badges or other distinguishing signs.

***Prohibition of uniforms in connection with political objects.***

23. (1) The Minister may, by notice in the Gazette, prohibit the wearing in public places or at public gatherings of any uniform, distinctive dress or emblem by members or adherents of an organization or association specified or described in the order, whether incorporated or not if members of such organisation or association are organised or trained and equipped for the purpose of enabling them to be employed -

- (a) in usurping the functions of the police or of the armed forces; or
- (b) for the use or display of physical force in promoting a political or other object, or in such a manner as to arouse reasonable apprehension that they are organized or trained or equipped for such purpose.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to imprisonment not exceeding three years or to a fine not exceeding fifteen (15, 000) thousand Emaḷangeni or both.

(3) If a person is charged before a court with an offence under this section, further proceedings in respect of such offence shall not be taken against that person without the consent of the Director of Public Prosecutions except such as the court may think necessary by remand, whether in custody or on bail, or otherwise to secure the due appearance of the person charged.

(4) If, however, such person is remanded in custody, that person shall after the expiry of a period of fourteen days from the date on which that person was so remanded, be entitled to a discharge from custody on entering into a recognizance without securities unless within that period the Director of Public Prosecutions has so consented to further proceedings.

**PART V**  
**MISCELLANEOUS PROVISIONS**

***Service of documents.***

24. (1) Any notice or order prohibiting an intended gathering shall be served personally on the convenor, or if the convenor cannot be located, on the organisation by whom the convenor has been appointed in the manner contemplated in subsection (2).

(2) If any order, notice or document, other than a notice or order contemplated in subsection (1), is required by or under this Act to be served on -

(a) any person, service thereof may be effected -

- (i) personally;
- (ii) by registered post;
- (iii) by faxing a copy to the fax number provided by such person; or
- (iv) by electronic mail to the email address provided by such person; or

(b) any organisation or body corporate, service thereof may be effected -

- (i) by personal service on any secretary, director or other officer or on any person concerned or acting in the management thereof, or
- (ii) by leaving the order, notice or document, or sending it by registered post, fax, or electronic mail addressed to the organisation or body corporate at its registered office or, if there is no registered office, at any place where it carries on business.

***Repeal and Transitional Provisions.***

25. (1) The Public Order Act 1963 is repealed.

(2) Any pending application for a license under the Public Order Act 1963 shall be dealt with as if that Act had not been repealed.

(3) Any condition attached to the grant of a license in terms of section 3(4) of the Public Order Act 1963 or any order made in terms of section 3(1) (b) of that Act and in force immediately before the commencement of this act shall remain in force and be enforceable until the expiry of that condition or order.

***Conflict of laws.***

26. (1) If any conflict relating to the matters dealt with in this Act arises between this Act and provisions of any other law save the Constitution or any act expressly amending this Act the provisions of this Act shall prevail.

(2) Nothing contained in this Act shall prevent a local authority from promulgating any bye-law or other regulation within its sphere of competence on any matter not regulated by this Act.

**Regulations.**

27. The Minister may, make regulations not inconsistent with this Act on –

- (a) any matter that in terms of this Act may or shall be prescribed by regulation; and
- (c) any matter that the Minister considers necessary or expedient to prescribe or have governed by regulation in order to achieve the primary objects of the Act.

**Code of Good Practice.**

28. (1) The Minister shall, within 3 months of this Act coming into effect, and after consulting the Minister responsible for housing and urban development and any other relevant stakeholder, issue a Code of Good Practice on matters dealt with in sections 8, 9, 11 and 12 of the Act.

(2) The Minister may, after consulting the Minister responsible for housing and urban development and any other relevant stakeholder, supplement, amend or replace the Code of Good Practice contemplated in subsection (1).

**Schedules**

29. The Minister may, after consulting the Minister responsible for housing and urban development and any other relevant stakeholder, amend repeal or replace any of the Schedules attached.

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**SCHEDULE 1**

**NOTICE OF GATHERING**

TO BE COMPLETED BY THE CONVENER IN ACCORDANCE WITH SECTION 6  
OF THE PUBLIC ORDER ACT 2017

**1. PARTICULARS OF CONVENER**

	CONVENER	DEPUTY CONVENER
Initials and Surname:	.....	.....
ID Number:	.....	
Address:	.....	
Contact number:	.....	.....
Fax and E-mail:	.....	

**2. PARTICULARS OF ORGANISATION**

Name of Organisation: .....

Address of Organisation: .....



Contact number: ..... Fax and E-mail: .....

### 3. PARTICULARS OF GATHERING

Date: .....

Place of assembly or commencement of procession: .....

Time of commencement of Gathering .....

Proposed finishing time of Gathering .....

Destination or procession: .....

Proposed route/s to be followed to destination(s): .....

.....

.....

If this Notice is being given less than 4 days' before the commencement of the gathering, provide reasons as contemplated in s6(3)

.....  
SIGNATURE OF CONVENER

.....  
ORGANISATION

.....  
CAPACITY

.....  
DATE

### SCHEDULE 2

#### COMPLIANCE CERTIFICATE

[TO BE COMPLETED BY THE LOCAL AUTHORITY IN TERMS OF SECTION 8(7)  
(c)(i) OF THE PUBLIC ORDER ACT 2017]

I, the undersigned, hereby certify that there has been due compliance with the requirements of section 8 of the Public Order Act 2017 in respect of the gathering identified below.

This certificate is issued in respect of a gathering to be held by .....

(insert name of organisation) on ..... (insert date) at

..... (insert place).

THUS DONE AND SIGNED AT

ON THIS DAY OF

20

.....  
TOWN CLERK (INSERT NAME OF LOCAL AUTHORITY)/PRINCIPAL MAGISTRATE  
(INSERT REGION)

**SCHEDULE 3**

**DEMAND TO CONVENE A CONSULTATION MEETING**

TO BE COMPLETED BY THE CONVENOR IN TERMS OF SECTION 8 (12) OF THE  
PUBLIC ORDER ACT 2017

(a) Name of Convenor:

(b) Date on which Notice of Gathering Served on Local Authority / Principal Magistrate:  
(Copy of notice and proof of service to be attached)

(c) Date by which the Consultation meeting shall be convened:

**THUS DONE AND SIGNED THIS      DAY OF      20 ....**

.....  
SIGNED BY CONVENOR