

Post and Telecommunications Corporation Act 1983

(Act. No. 11 of 1983)

THE SWAZILAND POSTS AND TELECOMMUNICATINS CORPORATION  
ACT.  
1983

I ASSENT PRINCE SOZISA

Authorised Person of the Kingdom of Swaziland  
18<sup>th</sup> October, 1983.

AN ACT

Entitled

An Act to establish the Swaziland Posts and Telecommunication Corporation.  
ENACTED by the Regent and the Parliament of Swaziland  
Arrangement of sections

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**AN ACT ENTITLED**

An Act, to establish the Swaziland Posts and Telecommunications Corporation, to repeal the Post Office Act 1962 and to provide for other matters connected therewith.

**PART I – PRELIMINARY**

Short title and Commencement

1. This Act may be cited as the Swaziland Posts and Telecommunications Corporation Act, 1980 and shall come into operation on such date as the Minister may, by notice in the Gazette , appoint.

*Interpretation*

2. (1) In this Act except where the context otherwise requires:

“addressee” means the person to whom any postal article or telegram is addressed;

“Appeal Tribunal” means the tribunal established under section 93;

“authorised” in relation to an officer or employee of the Corporation means an officer or employee authorised by the Managing Director to exercise the powers or perform the duties in respect of which the expression is used.

“Chairman” means the Chairman of the Board appointed under section 4;

“customs law” means any law imposing or relating to the collection of customs, fiscal, excise or sales duties;

“Department” means the Post Office Department established by the Post Office Act, 1962 (Act No. 60 of 1962);

“export” in relation to any article means to transfer such article from Swaziland to a foreign country;

“fictitious postage stamp” means any facsimile or imitation or representation of any postage stamp;

“financial year” means the period commencing on the 1<sup>st</sup> April and ending on the 31<sup>st</sup> March of the following year;

Provided that the first financial year may be longer or shorter than twelve months if the Minister so determines;

“franking machine” means a machine for the purpose of making impressions on postal articles to denote prepayment of postage and includes any meter or meters and any franking or date-stamping die or dies incidental thereto;

“import” in relation to any article means to bring such article into Swaziland from a foreign country;

“mail bag” means any bag, box, basket, parcel or other envelope or covering in which postal articles are conveyed, whether or not it contains such article;

“mail vessel” means any vessel in relation to which there exists any agreement for the conveyance of mails;

“master” used in relation to a vessel or aircraft, means any person in charged thereof;

“Managing Director” means the chief executive officer of the Corporation appointed by the Minister under section 9;

“Minister” means the minister for the time being responsible for communications.

“money order” includes postal orders;

“money order services” means the services performed and facilities provided in connexion with the remission, in accordance with the regulations made under this Act, of sums of money from one place to another through the Corporation by means of money orders;

“postage” means the amount chargeable for the transmission by post of postage articles;

“postage stamp” means any label stamp or device currently valid for denoting any rate of postage payable in respect of postal articles issued under this Act or by the postal administration of any foreign country;

“postal article” includes any article transmitted or in the course of transmission by post;

“postal services” means the services performed and facilities provided in connection with;

(a) the collection, transmission and delivery, whether by land, by water or by air from one place, whether within or without Swaziland, to another place, whether within or without Swaziland, of postal articles

(b) the issue of postage stamps and the use of franking machine

(c) the issue and payment of money orders for the remission money through the Corporation

“post office” includes any house, building, room, receptacle, vessel, vehicle, or place used for purposed of the Corporation;

“post office guide” means a document published by the Corporation containing any matter required under this Act to be published therein;

“post office letter box” means any receptacle provided by the authority of the Managing Director for the reception of postal articles;

“private bag” means a bag provided exclusively for the reception of postal articles intended for the user of such bag;

“private box” means a receptacle at the post office provided exclusively for the reception of postal articles intended for the user of such box;

“public broadcasting” means transmission by authorised broadcasting stations of music, speech and entertainment in sound alone, or sound and vision, intended primarily for reception by the general public;

“public telegraph licence” means a telegraph licence granted under section 70;

“public telephone licence” means a telephone licence granted under section 59;

“the purposes of the Corporation” means any purpose necessary or desirable for the performance of the services or the provision of the facilities which the Corporation is authorised or required to perform or provide under this Act;

“radio communication” means emitting or receiving over paths which are not provided by any material substance constructed or arranged for that purpose, of electro-magnetic energy of a frequency not exceeding three million megahertz being energy which either:-

- (a) serves for the conveying of the message, sound or visual images (whether the messages, sound or visual images are actually received by any person or not) or for the actuation or control of machinery or apparatus; or
- (b) is used in connection with the determination of position, bearing or distance, or for gaining of information as to the presence, absence, position or motion of any object or of any objects of any class.

“radio communication apparatus” or “radio communication station” means any apparatus or station for the emitting or receiving of radio communication, and includes:-

- (a) any radio communication apparatus or station which cannot lawfully be used without a radio communication licence, or could not lawfully be used without such a licence but for regulations made under section 86 and any radio communication in the form of messages, sound or visual images received by that apparatus or station; and
- (b) any apparatus which is electrically coupled with that apparatus or station for the purpose of enabling any person to receive any such messages, sound or visual images;

“radio communication licence” means any licence granted by the Managing Director under section 86;

“telecommunication licence” means radio communication services, telegraph services and telephone services;

“telegram” means any communication or visual image delivered to the Corporation, or to the holder of a telegraph licence, intended for transmission by telegraph apparatus, any such communication or visual image delivered by the Corporation or such holder, to the addressee or to any person for the addressee;

“telegraph apparatus” means any apparatus, equipment or other things used or intended to be used in connection with the transmission of communications or visual images by means of electric signals from one place to another place either along a wire joining these two places, or partly by wire and partly by radio communication, or wholly by radio communication;

Provided that any such apparatus, equipment or other thing used solely for the transmission of signals by lights, bells or buzzers from one part of a building to another part of the same building shall not be deemed to be telegraph apparatus for the purposes of this Act;

“telegraph licence” means any licence granted by the Managing Director under section 70;

“telegraph line” means any wire or tube used for the purposes of telegraph services and any apparatus connected therewith;

“telegraph pole” means any pole, post or other thing used for the purposes of supporting any telegraph line;

“telegraph services” means the services performed and the facilities provided in connection with the transmission of communication by means of telegraph apparatus;

“telephone” means an instrument used or intended to be used by any person transmitting or receiving any communications by means of telegraph apparatus;

“telephone apparatus” means any apparatus, equipment or other thing used or intended to be used in connection with the transmission of spoken communication by means of electricity

from one place to another place either along a wire joining these two places or partly by wire from each of those two places and partly by radio communication;

“telephone licence” means any licence granted by the Managing Director under section 59;

“telephone line” means any wire used for the purpose of telephone services and any apparatus connected therewith;

“telephone pole” means any pole, post, tree or other thing used for the purpose of supporting any telephone line;

“telephone services” means the services performed and facilities provided in connection with the transmission of spoken communications by means of telephone apparatus;

“watercourse” means any river, stream, gully or channel, whether artificial or not, in which water flows whether constantly or intermittently.

(2) For the purpose of this Act:-

- (a) A postal article shall be deemed to be in course of transmission by post from the time of its being posted at, or delivered to, a post office to the time of its being delivered to or taken delivery of by, the addressee or of its being restructured to the sender or otherwise disposed of under the provision of this Act;
- (b) the placing of an article in any post office letter box, or the delivery of an article to a course of his duties, shall be deemed to be delivery to a post office;
- (c) the delivery of a postal article at the house or office of the addressee or to the addressee or to his servant or agent or other person apparently authorised to receive the article according to the usual manner of delivering postal articles to the addressee, or the inclusion of a postal article in the addressee’s private box or private bag, or, where the addressee is a guest or is resident at an hotel, the delivery of a postal article to the proprietor or manager thereof or to his agent, shall be deemed to be delivery to the addressee.
- (d) any reference to the emission of electromagnetic energy or to emission shall be construed as including a reference to the deliberate reflection of electromagnetic energy by means of any apparatus designed or specifically adapted for that purpose whether the reflection is continuous or intermittent;
- (e) interference, in relation to radio communication, means the prejudicing by any emission or reflection of electro-magnetic energy of the fulfilment of the purposes of radio communication either generally or in part;
- (f) in considering whether in any particular case interference with radio communication caused or likely to be caused by the use of apparatus is or is not undue interference, regard shall be had to all the known circumstances of the case and the interference shall not be regarded as undue interference if so to regard it would unreasonably cause hardship to the person using or desiring to use the apparatus.

## **PART II – ESTABLISHMENT AND MANAGEMENT OF THE CORPORATION**

### *Establishment of the corporation.*

- 3. (1) There shall be established a corporation to be known as the Swaziland Posts and Telecommunications Corporation, in this Act referred as the Corporation.
- (2) The Corporation shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose of movable and immovable property for the purposes of the Corporation.

(3) The headquarters of the Corporation shall be at Mbabane.

*Establishment of the Board.*

4. There shall be a board of directors of the Corporation, in the Act referred to as the Board, which shall consist of:-
- (a) a Chairman of the Board appointed by the Minister;
  - (b) the Managing Director;
  - (b) the Permanent Secretary of the Ministry for the time being responsible for communications;
  - (d) the Permanent Secretary to the Ministry for the time being responsible for finance;
  - (e) not more than three persons, not being public officers or servants of the Corporation, appointed by the Minister by virtue of their knowledge of and experience in communications matters or in commerce, industry, finance or administration generally.

*Powers of the Minister.*

5. The minister may:-
- (a) give directions of a general nature to the Board relating to the operation of the undertaking of the Corporation and the Corporation shall comply with such directions;
  - (b) with the concurrence of the Minister responsible for finance, approve any major alteration in the tariffs of the services provided by the Corporation;
  - (c) approve any major alteration in salaries, wages or the other terms and conditions of services of employees of the Corporation;
  - (d) with the concurrence of the Minister responsible for finance, approve any individual capital work, for the purposes of the Corporation, of which the estimated costs exceeds one million Emalangeni or such other sum as the Minister may determine;
  - (e) determine the limits of major alterations for the purposes of paragraphs (b) and (c) of this section and the minor alterations for this section and the minor alterations for the purposes of paragraphs (a) and (b) of section 6;
  - (f) make regulations for the carrying out of the purposes of this Act.

*Powers of the Board.*

6. In the exercise of its duty under section 7, subject to any directions of a general nature which may be given to it by the Minister, the Board may:-
- (a) approve any minor alteration not exceeding 10% in the tariff of the postal, telephone and telegraph services provided by the Corporation;
  - (b) approve any minor alterations in salaries, wages or other terms and conditions of service of employees of the Corporation;
  - (c) approve any individual capital work for the purposes of the Corporation, not included in a programme of works approved by the Minister, of which the estimated cost does not exceed one million Emalangeni or such other sum as the Minister may by order determine;

- (d) consider legislative proposals and recommend their enactment;
- (e) subject to section 21, provide new services or facilities requested by the Government;
- (f) approve any alteration in the organisation or establishment of the Corporation other than an alteration referred to in section 11 (f); and
- (g) give directions to the Managing Director.

*Duties of the Board.*

7. (1) It shall be the duty of the Board, by means of the undertaking of the Corporation:-
- (a) to provide postal services and telecommunications services within Swaziland and from Swaziland to foreign countries; and
  - (b) to regulate and control radio communications operated from or received in Swaziland.
- (2) The performance of the duty referred to in subsection (1) shall include a general duty to secure:-
- (a) the fullest development, consistent with economy, of the undertaking of the Corporation;
  - (b) that the undertaking of the Corporation is operated efficiently, economically and with due regard for safety;
  - (c) that the financial administration of the Corporation is conducted in accordance with section 100;
  - (d) that the Corporation provides all reasonable facilities for the transmission of postal articles by means of postal services, for the remission of money by means of money order services and for communications by means of telephone and telegraph services;
  - (e) that no particular person is given any undue preference or subjected to any undue disadvantage:

Provided that, notwithstanding the provisions of this paragraph, the Board may:-

- (i) afford priority to the Government in the transmission of communications;
- (ii) afford priority to any class of person in the installation of telephone apparatus where the circumstances in the opinion of the Managing Director do not permit the installation of such apparatus in the case of all persons making application therefore.

*Remuneration of Directors*

8. The Corporation shall pay to the Directors such remuneration, fees or allowances for expenses as may be determined by the Minister.

Provided that no remuneration, fees or allowances for expenses shall be paid to any director who is a public officer in receipt of a salary.

*Managing Director, Deputy and Secretary*

9. (1) There shall be a Managing Director of the Corporation who shall be appointed by the Minister after consultation with the Board whose terms and conditions of service shall be determined by the Minister in his instrument of appointment or otherwise in writing from time to time.

- (2) The board shall appoint a deputy managing director and a secretary to the Corporation whose terms and conditions of service shall be determined under section 113.

*Functions of Managing Director*

10. Subject to this Act, the control and executive management of the Corporation shall be vested in the Managing Director.

*Powers of Managing Director*

11. Subject to the directions of the Board, the Managing Director may:-
- (a) establish and operate postal and telecommunications services, including agency services for the Government which may conveniently be performed in association therewith;
  - (b) regulate and control radio communications;
  - (c) approve recurrent expenditure within limits determined by the Board;
  - (d) approve any individual capital work of which the estimated cost does not exceed E100,000 Emalangeni or such other sum as the Minister may by order determine;
  - (e) approve any alteration in salaries, wages or other terms and conditions of service of employees of the Corporation not involving expenditure in excess of the limits determined by the Board; and
  - (f) approve any alteration in the establishment of the Corporation other than an alteration involving a major reorganisation or a substantial reduction of the number of employees.

*Further Provisions.*

12. (1) The First Schedule shall have effect with respect to the constitution of the Board and other matters relating thereto.
- (2) The Minister may, by Notice in the gazette, amend the First Schedule.

**PART III – POWERS AND FUNCTIONS OF THE CORPORATION**

*Powers of the Corporation.*

13. (1) The Corporation shall have power:-
- (a) to establish and operate postal services and to perform incidental services relating to the receiving, collecting, sending, despatching and delivering of postal articles;
  - (b) to establish and operate money order services and to perform incidental services relating to the issuing, receiving and paying of money orders;
  - (b) to establish and operate telephone services and to perform incidental services relating to the receiving, collecting, despatching and delivering of telegrams;
  - (d) to establish and operate telegraph services and to perform incidental services relating to the receiving, collecting, despatching and delivering of telegrams;
  - (e) to establish and operate radio communication services, to regulate and control radio communication and to provide, install and maintain the necessary equipment for any other person authorised to operate radio communication;
  - (f) to act as a agent of a bank in accordance with section 99.

- (2) Subject to this Act, the powers conferred by subsection (1) shall include all such powers as are necessary for the purposes of the Corporation, and in particular, but without prejudice to the generality of the foregoing, shall include power:-
- (a) to enter into such contracts as may be necessary for the purposes of the Corporation, or otherwise for carrying into effect the provisions of this Act;
  - (b) to establish, acquire, construct and maintain post offices, telephone offices, telegraph offices, radio communication offices, buildings or any other necessary works required for the purposes of the Corporation;
  - (b) to acquire, construct, manufacture, maintain or repair anything required for the purposes of the Corporation;
  - (d) to carry on any business necessary or desirable for the purposes of the Corporation
  - (e) to acquire, construct, manufacture, maintain or repair electric generating plant or any other works, plant or apparatus necessary for the supply, storage or transmission of electric energy for the purposes of the Corporation;
  - (f) to determine, impose and levy rates, charges or fees for any services performed by the Corporation, or for the use by any person of the facilities provided by the Corporation, or for the grant to any person of any licence, permit or certificate issued under this Act;
  - (g) to prohibit, control or regulate:-
    - (i) the use by any person of any of the services performed or facilities provided by the Corporation; or
    - (ii) the presence of any person or article on premises occupied by the Corporation for the purposes of the Corporation;
  - (h) to sell, let or otherwise dispose of any property, movable or immovable, which, in the opinion of the Board, is not necessary for the purposes of the Corporation.

Provided that the Corporation shall not so sell, let or otherwise dispose of any building or land placed at its disposal by the Government otherwise than with the consent of and on the conditions agreed by the Government;

- (i) to act as agent for any person engaged, whether in Swaziland or elsewhere, in the performance of services or the provision of facilities of a kind similar to those performed by the Corporation;
- (j) to act as agent for any service of the Government in the performance of any agreed functions.
- (k) to call, evaluate and award tenders for the supply, construction, manufacture, maintenance and repair of any property, movable or immovable, for the carrying into effect the provisions of this Act;
- (l) to enter into agreements with any person:-
  - (i) for the supply, construction, manufacture, maintenance and repair by that person of any property, movable or immovable, necessary for the purposes of the Corporation;
  - (ii) for the performance or provision by that person of any of the services for facilities which may be performed or provided by the Corporation.

- (ii) for the payment, collection or apportionment of any rates, charges, fees or other receipts arising out of the performance or the provision by that person of any such services facilities;
- (m) to provide houses and other accommodation for employee of the Corporation;
- (n) to hold shares in any other corporation and to establish or acquire any subsidiary corporation.
- (3) For the avoidance of doubt, it is hereby declared that subsections (1) and (2) relate only to the capacity of the Corporation as a statutory corporation and nothing in these subsections shall be construed as authorising the disregard by the Corporation of any law.
- (4) The powers conferred on the Corporation under this section to construct or execute any works shall empower the construction or execution of such works:-
  - (a) on land vested in the Corporation or on land placed at its disposal by the Government for the purposes of the Corporation; or
  - (b) in the case of land not so vested in or placed at the disposal of the Corporation, only with the agreement of the owner of the land on which such works are to be constructed or executed, and where any land is required by the Corporation for the purposes of the Corporation it shall proceed in accordance with section 14.

*Power to Acquire Land.*

- 14. (1) Where land is required by the Corporation for the purposes of the Corporation, it may either:-
  - (a) if such land is not public land, acquire such land through negotiation and agreement with the registered owner thereof:

Provided that, notwithstanding the provisions of the Land Speculation Control Act, 1972, (Act No. 8 of 1972) the ensuing transaction shall not require the consent of the Land Control Board if the land to be acquired is agricultural land; or

- (b) if such land is public land, or if the Corporation is unable to acquire it by agreement in accordance with paragraph (a) of this subsection, notify the Minister responsible for public lands that the land specified in the notice is required for the purposes of the Corporation.-
- (2) When notice has been given under subsection (1) (b), then:-
  - (a) if the land is public land, the Minister responsible for public lands may, in his discretion and upon such terms and conditions as he may think fit, place such land at the disposal of the Corporation for the purposes of the Corporation;
  - (b) if the land is not public land, any provision in any written law which empowers the Minister responsible for lands to acquire or direct the acquisition of such land for any specific purpose shall be deemed to include a power enabling the Minister responsible for lands to acquire or direct the acquisition of such land for the purposes of the Corporation.
- (3) Where any compensation is payable to any person in respect of any land specified in the notice given under subsection (1) (b) acquired by the Minister responsible for public lands, and such land after being so acquired is placed at the disposal of the Corporation in accordance with the provisions of the law under which the land was acquired, shall be paid by the Corporation.
- (4) The Corporation may at any time convey, transfer or surrender any land surplus to both existing and future requirements by a conveyance or a deed of surrender either for, or without, consideration:

Provided that the land which was public land or trust land shall be surrendered to the Government and shall not be conveyed or transferred to any other person unless the Minister responsible for lands shall so consent and so direct.

(5) The provisions of subsection (4) shall apply to land vested in the Corporation by any written law, including this Act, as well as to land conveyed to it or otherwise placed at its disposal.

(6) In this section:-

“public lands” means all public land in Swaziland, excluding Swazi National land, which is vested in the Government for public purposes or for the purposes of the Corporation or its predecessors in title, and for the purposes of the proviso to subsection (4) includes land previously so vested;

“Swazi National Land” means land which is vested in the King for national purposes.

*Power to Enter on Land to Survey, etc.*

15. (1) Subject to this Act, any unauthorised employee of the Corporation may for the purposes of the Corporation:-

(a) enter upon any land and survey such land or any portion thereof;

(b) enter upon any land in order to construct, erect, place, maintain, examine, alter or remove any telephone or telegraph line or pole or radio route installation which is the property of the Corporation.

(2) Where any damage to land is caused by reason of the exercise of the powers conferred by this section, the owner or occupier of such land shall be entitled to receive compensation therefore in accordance with this Act.

*Power to Erect, etc, Telephone Lines on Property.*

16. (1) The Corporation may, for the purposes of the Corporation, construct, erect, place, maintain, alter or remove telephone and telegraph lines and poles and radio route installations in, on, over, under, along or across any land, building, road, railway, warehouse, port, harbour or branch of the sea;

Provided that:-

(i) the Corporation shall not acquire any right other than that of user only in the property in, on, over, under, along, or across which such lines or poles or radio route installations are constructed, erected or placed;

(ii) the Corporation shall not construct, erect, place, alter or remove any telephone or telegraph lines or poles or radio route installations in, on, over, under, along or across any such property unless it has been given reasonable notice of its intention to exercise such power to the owner or occupier of the property or to the local authority having the control or management of the property.

(2) In the exercise of its powers under this section the Corporation may:-

(a) cut and remove all such trees and underwood as interfere or are likely to interfere with the construction, erection, placing, maintenance, alteration, removal of any existing or proposed telephone or telegraph lines or poles or radio route installations.

(b) utilise any tree or building for the construction, erection, placing or maintenance of any telephone or telegraph line or pole or radio route installation;

- (c) open and break up any road and:-
  - (i) alter the position of any pipe for the supply of water, gas, or compressed air, or the position of any drain not being a main drain:

Provided that, in such any case the Corporation shall make arrangements to ensure that there shall not be any undue interference with the supply of water, gas or compressed air or with the maintenance of drainage or with the continuance of telephone or telegraphic communications; or

- (ii) require the owner of any electric supply line to alter the position of such electric supply line to the satisfaction of the Managing Director, and if the position of such electric supply line is so altered from a position which had been approved in writing by the Managing Director the cost of such alteration shall be borne by the Corporation:

Provided that, where an undertaker as defined for the purposes of section 19, does not agree to alter the position of an electric supply line which prior to the commencement of this Act has been laid in a position which has not been so approved in writing, the Managing Director may refer the matter to the Minister responsible for public lands and thereupon the provisions of subsections (5) and (6) of section 19 shall apply.

- (3) Where the Corporation exercises any power under this section in relation to any property under the control or management of the local authority, such authority may authorise a representative to superintend the work to the satisfaction, of such representative, and any reasonable expense to which such local authority is put arising out of the exercise of such power and out of any such supervision shall be borne by the Corporation.
- (4) Where the Corporation, in the exercise of any power under this Section, constructs, erects or places any telephone or telegraph line or pole or radio route installation in, on, over, under, along or across any watercourse, port, harbour, branch of the sea, road, or railway, it shall be so constructed, erected or placed as not to hinder, obstruct or interfere with navigation or passage thereon.
- (5) Where any damage is caused to property by reason of the exercise of the powers conferred by this section, the owner or occupier of such property shall be entitled to receive compensation therefore from the Corporation in accordance with this Act.

*Removal of Telephone Lines, etc., Erected on Property.*

- 17. (1) Where any telephone or telegraph line or pole or radio route installation has under the provisions of this Act been constructed, erected, placed in, on, over, under along or across any property under the control or management of a local authority and that authority considers it expedient, having regard to circumstances which have arisen since the line or pole or radio route installation should be removed or that its position should be altered, that authority may require the Corporation to remove it or to alter its position, and:-
  - (a) if such authority had agreed in writing to the position of such line or pole or radio route Installation, then the Corporation shall comply with such requirement and the cost of any such removal or alteration shall be borne by the local authority;
  - (b) if the authority had not agreed in writing to the position of such line or pole or radio route installation, then:-
    - (i) if the Managing Director agrees to such removal or alteration the Corporation shall comply with such requirements and the cost therefore shall be borne by the Corporation;
    - (ii) if the Managing Director does not agree to such removal or alteration the matter shall be referred to the Minister responsible for public lands and the

decision of that Minister as to the removal or alteration and as to the payment or apportionment of such cost shall be final.

- (2) Where any telephone or telegraph line or pole or radio route installation has under the provisions of this Act been constructed, erected, or placed in, on, over, under, along or across any property, other than property under the control or management of a local authority, and any person entitled to do so desires:-
- (a) to erect on such property a building which would interfere with the telephone or telegraph line or pole or radio route installation, either temporarily or permanently, he may require the Corporation to remove it or alter its position, and the Corporation shall comply with such requirements and the cost of any such removal or alteration shall be borne by the Corporation:

Provided that, if the telephone or telegraph line or pole or radio route installation had been placed in its position in order to provide telephone or telegraph services solely for the person making such requisition, then the cost of any such removal or alteration shall be borne by such person;

- (b) to deal with such property in a manner, other than by the erection of a building, which renders it desirable that such line or pole or radio route installation should either temporarily or permanently be removed or that its position should be altered, he may require the Corporation so to remove it or to alter its position and the Corporation may either:-
- (i) comply with such requirement and agree that the cost of such removal or alteration shall be borne by the Corporation; or
- (ii) comply with such requirement subject to the cost, or any part thereof, of such removal or alteration being borne by such person and the deposit with the Corporation of such sum in contribution thereto as the Managing Director may require; or
- (iii) refuse to comply with such requirement, in which event such person may apply to the Minister for an order as to such removal or alteration and the payment of the cost thereof, and any such order shall be final.

*Power to Enter Land to Prevent Accidents.*

18. (1) Any authorised employee of the Corporation may, for the purpose of preventing the occurrence of an accident, restoring the proper operation of any telephone or telegraph services provided by the Corporation or repairing any damage caused by an accident, enter upon any land and:-
- (a) cut down or remove any tree, underwood or other obstruction, not being a building, which endangers or interferes with or is likely to endanger or interfere with any telephone or telegraph lines or poles or radio route installations;
- (b) execute such other works as may be necessary to prevent the occurrence of any accident or to restore the proper operation of any such telephone or telegraph or to repair any damage caused as a result of any accident.
- (2) Where any damage is caused to property by reason of the exercise of the powers conferred by subsection (1), the owner or occupier of the property shall be entitled to receive compensation thereof from the Corporation in accordance with this Act:

Provided that, if any tree, underwood or other obstruction cut down or removed under subsection (1) (a) came into existence subsequent to the telephone or telegraph lines or poles or radio route installations being provided at that place, then no compensation shall be payable in respect of such entry and the cutting down or removal of the tree, underwood or other obstruction.

*Powers in Relation to Electricity Undertakers.*

19. (1) Subject to subsection (7), any person who establishes or operates, under any written law or otherwise, any undertaking for the supply of light, heat or power by means of electricity (in this section referred to as “undertaker”) or any person who constructs, equips or operates a railway by means of electricity (in this section referred to as “railway operator”) shall, at least one month before erecting, placing or altering the position of any line or wire for the transmission of such electricity, forward to the Managing Director a notice in writing of his intention to execute such work together with a plan of the proposed work, and the undertaker or the railway operator shall also give to the Managing Director all such other information as he may require in order to determine whether such work is likely to interfere unduly with any telephone or telegraph services provided by the Corporation.
- (2) Where an undertaker has given notice in writing on accordance with subsection (1), the Managing Director shall, within one month of the receipt of such notice, inform the undertaker in writing that the proposed work has either been approved or that, in accordance with subsection (3), certain requirements are considered necessary to be effected or that the matter referred to in the notice is receiving attention, and in the event of no such notice in writing being so given, the position of an electric supply line specified in the notice given in accordance with subsection (1) shall, for the purpose of this Act, be deemed to have been approved in writing.
- (3) If the Managing Director considers that any such work is likely to interfere unduly with any telephone or telegraph services provided by the Corporation, he may inform the undertaker or the railway operator of any requirements he may consider necessary to be effected by the undertaker or the railway operator or in order to remove or lessen such anticipated interference, and in so doing the Managing Director shall have regard not only to the interests of such telephone or telegraph services but also to interest all persons supplied or who may be supplied with electricity by the undertaker and of all persons using the facilities provided by the railway operator.
- (4) If the undertaker or the railway operator does not agree to effect such requirements, or any altered requirements consequent upon any negotiations between the Managing Director and the undertaker or railway operator, the Managing Director may refer the matter to the Minister responsible for public lands, and where the Managing Director so refers the matter the undertaker or the railway operator shall not, save in so far as may be agreed by the Managing Director, proceed with execution of such work until that Minister has given his decision under this section.
- (5) Where any matter has been referred to the Minister responsible for public lands under this section that Minister may appoint any person or committee to investigate the matter and to report thereon to him, and the Managing Director and the undertaker or the railway operator shall be entitled to be heard before such person or committee.
- (6) After considering the report of any such person or committee the Minister responsible for public lands may give such decision as he may think fit, and such decision may specify what requirements, if any, the undertaker or railway operator shall comply with in executing any work and any such decision shall be final.
- (7) The Managing Director may by notice in the Gazette specify general requirements to be observed by any undertaker or railway operator when erecting, placing or altering the position of any electric supply line, and in any such notice the Managing Director may provide that it shall not be necessary:-
  - (a) for any undertaker or railway operator effecting any specified class of work; or

- (b) for any specified class of undertaker or railway operator, to give to the Managing Director, the notice referred to in subsection (1) if, in effecting any work, any such undertaker or railway operator proposes to comply and does comply with such general requirements.
- (8) The Managing Director shall at least one month before constructing, erecting, placing or altering the position of any trunk telephone or telegraph line give notice of the proposed work in writing to any undertaker lawfully operating in the area in which the work is to be executed.
- (9) The provision of this section shall be in addition to and shall not derogate from the provisions of any written law.

*Structures Likely to Interfere with Telecommunications Services.*

- 20. (1) Where any person erects any building or structure which is likely to cause interference with telecommunication services, the Managing Director may, unless such person has previously obtained the approval in writing of the Managing Director to the erection of such building or structure or has modified it to the satisfaction of the Managing Director, require such person to pay to the Corporation the amount of any expenditure necessarily incurred by the Corporation in the removal of any telecommunications installation, apparatus or equipment in order to prevent such interference.
- (2) For the purposes of this section a building or structure shall be deemed likely to interfere with telecommunication services if it exceeds forty metres in height measured from ground level.

*Provision of Particular Services.*

- 21. So far as it is not inconsistent with section 100, the Minister may, where he considers it on the public interest to do so, and after consultation with the Board, direct the Corporation to provide a particular postal, telephone, telegraph or radio communication services.

**PART IV – POSTAL SERVICES**

*No Letters to be conveyed Except by the Corporation.*

- 22. (1) No letter, other than exempted letters, shall be conveyed by land, by water, or by air into or out of Swaziland, or delivered or distributed in Swaziland otherwise than by or through the Corporation.
- (2) For the purposes of this section exempted letters are:
  - (a) letters carried privately and without hire, reward or other profit or advantage for receiving, carrying or delivering them;
  - (b) letters solely concerning goods or other property sent by land, by water or by air, to be delivered together with the goods or property which such concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them;

Provided that such letters are open to inspection and have superscribed thereon the words “consignee’s letter” or other words to that effect;

- (c) letters carried by any person in circumstances authorised by the Managing Director and subject to such conditions as he may impose.
- (3) In this section the expression “letters” means any written or printed communication conveying from one person to any other particular person information upon matters personal to such persons or information upon which it is intended that the recipient should reply, act or refrain from acting, but does not include any written or printed

communication which is a newspaper or a periodical unless such newspaper or periodical is accompanied by any other communication.

Stamps, envelopes, etc., to be Issued by the Corporation.

23. (1) The Corporation shall cause to be made available and shall have the exclusive privilege of issuing postage stamps, any envelopes, wrappers or forms prestamped for postage and international reply coupons;

Provided that the Managing Director may appoint, subject to such conditions as he may determine, any person to be an authorised agent for the purpose of making any such articles available to the public.

- (2) The Managing Director, may, subject to such conditions as he may determine, license the use by any person of a franking machine.

*Corporation to Determine Rates and Charges.*

24. Subject to sections 5 and 6, the Corporation may determine the rates of postage and the charges to be paid in respect of any postal service provided by the Corporation and shall publish such rates and charges in the Post Office Guide.

*Prepayment of Postage.*

25. All postage and other charges on postal articles imposed under this Act shall be prepaid by means of postage stamps or impressions of franking machines licenced under this Act, and such stamps and impressions shall be affixed to all postal articles liable to postage to the amount of the rates of postage payable thereon:

Provided that:-

- (i) the Minister may by regulation:-
- (a) prescribe other means of payment, including the use of postal franks, for such classes of postal articles as may be specified;
  - (b) provide for the conditions under which postal articles in respect of which the postage is unpaid or insufficiently prepaid may be transmitted by post;
- (ii) the Minister may by order declare that any specified postage stamps previously issued under this Act for the prepayment of postage or other charges shall cease, as from a specified date, to be valid for such purposes.

*Addressee may be Liable for Postage, etc.*

26. (1) The person to whom any postal article is tendered for delivery in which postage or any other charge is due shall be liable to pay such postage or other charge unless:-
- (a) he refuses to accept delivery or such postal article; or
  - (b) having accepted delivery of such postal article, he returns it unopened.
- (2) If any postal article appears to the satisfaction of the Managing Director to have been maliciously sent for the purposes of annoying the addressee, he may remit the postage or other charge due from the addressee.
- (3) If any postal article on which the postage or any other charge is due is refused or returned unopened by the addressee, or if the addressee is dead or cannot be found, then the sender shall be liable to pay the postage or other charges dues thereon.

*Postal Articles not to be opened.*

27. (1) Subject to this Act, where any postal article is in the course of transmission by post no employee of the Corporation shall open it or deliver it to any person other than the addressee, or permit it to be opened or delivered to any person other than the addressee, unless he is authorised to do so by express warrant in writing under the hand of the Managing Director:

Provided that nothing in this Act shall preclude the examination of any postal article and the disposal of any article in accordance with the provisions:-

- (i) of the customs law; or
  - (ii) of any law prohibiting or regulating the importation or exportation of any article.
- (2) The Managing Director may, in any individual circumstances which appears to him to warrant such a course, grant his warrant for opening or returning any specified postal article.

*Interception of Postal Articles in Public Emergency, etc.*

28. (1) On the occurrence of any public emergency or in the interests of public safety or tranquillity, the Prime Minister may by order in writing addressed to the Managing Director direct that any postal article or class or description of postal articles in the course of transmission by post within Swaziland be intercepted or detained or be delivered to any officer mentioned in the order or disposed of in any other manner.
- (2) A certificate signed by the Prime Minister shall be conclusive proof of the existence of a public emergency or that any action taken under subsection (1) was in the interests of public safety or tranquillity.
- (3) Any postal article which is reasonably suspected of containing anything which will afford evidence of the commission of a criminal offence or reasonably suspected of being sent in order to further the commission of a criminal offence or to enable the detection of a criminal offence to be concealed, shall, on the written request of any police officer of or above the rank of Superintendent, be detained by the officer in charge of any post office in which it is or through which it passes and the Managing Director shall, if authorised thereto by such police officer, cause it to be handed over to such police officer.

*Power to Detain or Open a Mail Bag.*

29. Any mail bag may be detained or opened under the authority of the Managing Director.

*Power to Dispose of Obscene or Prohibited Articles.*

30. If the Managing Director has reason to believe:-
- (a) that any postal article has thereon or enclosed therein any words, drawing or picture of a seditious, scurrilous, threatening, obscene or grossly offensive character; or
  - (b) that any postal article is one which has been declared by regulations made under this Act to be prohibited from transmission by post, he may direct such postal article be detained and examined and if on such examination such postal article is found to have thereon or therein any such words, drawings or pictures, or to be one which is prohibited from transmission by post, the Managing Director may direct that it shall be disposed of in such manner as he may think fit.

*Power to Deal with Postal Articles Containing Anything in Respect of which an Offence is Committed.*

31. (1) If the Managing Director has reason to believe that any postal article contains anything in respect of which an offence is being or has been committed, or is being attempted to be committed, he may require by notice in writing the attendance, at a specified post office and time, of the addressee of such postal article or of some agent deputed in writing by such addressee and of a police officer, and such postal article shall then be opened by the addressee or his agent in the presence of an authorised employee and of the police officer.
- (2) If the addressee or his agent fails to attend in pursuance of the notice or refuses to open the article, it shall be opened by the authorised employee in the presence of the police officer.
- (3) Where a postal article has been opened under this section it shall be delivered to the addressee or his agent, and if it is found to be a postal article to which section 30 applies it shall be disposed of in accordance with that section.
- (4) Where the Managing Director is requested by the Commissioner of Police to exercise his powers under this section, he shall do so and thereupon the notice referred to in subsection (1) shall be issued.

*Power to Detain Postal articles with fictitious stamps.*

32. (1) The Managing Director or any authorised employee may detain and withhold from delivery any postal article bearing or containing any fictitious postage stamp or purporting to be prepaid by with any postage stamp previously used to prepay any other postal article or to pay any revenue duty or tax.
- (2) Any postal article detained under this section shall be dealt with as the managing Director may direct, and the Managing Director may direct such that such postal article shall not be delivered to the addressee unless such addressee undertakes to return immediately that portion of the postal article which bears the address and the fictitious or previously used postage stamps or, if the postal article is inseparable from the postage stamp, the entire postal article and give such information with regard to the name and address of the sender and such other particulars as the Managing Director may require.

*Duty of Master to Deliver Postal Articles Without Delay.*

33. The master of any vessel or aircraft arriving at any port, harbour, airport or other place in Swaziland shall without delay:
- (a) report to the office in charge of the post office nearest to the harbour, airport or other place of arrival the presence on board of any postal article or mail bag destined for Swaziland and shall deal with such postal article or mail bag as required by such officer; and
- (b) if so required by such officer, shall cause every postal article or mail bag on board to be delivered to a post office or to an authorised employee and receipt of such officer shall discharge the master from all further responsibility in respect of the postal article or mail bag.

*Notice to Post Office of Departure of Vessel or Aircraft.*

34. (1) The master or agent of any vessel or aircraft which is about to depart from any port, harbour, or airport in Swaziland shall give to the officer in charge of the post office at such port, harbour or airport notice in writing of the intended time of departure and the places of call or destination:

Provided that the Managing Director may exempt any vessel, aircraft or class thereof from any or all of the provisions of this section.

- (2) The notice referred to in subsection (1) shall be given not less than:-
  - (a) twenty four hours before departure in the case of a vessel or aircraft proceeding to a destination outside Swaziland; or
  - (b) three hours before departure in the case of a vessel or aircraft proceeding to a destination within Swaziland, and shall expire between the hours of eight o'clock in the forenoon and six o'clock in the afternoon:

Provided that a shorter notice may be allowed by the Managing Director or the officer in charge of the post office at the harbour or airport or any place of departure in any case or special class of case.

- (3) Where it has been decided to postpone the departure of any vessel or aircraft after the notice referred to in subsection (1) has been given, then the master or agent thereof shall, within one hour of the decision to postpone such departure having been taken, give a similar notice of the new intended time of departure.

*Duty of Master to carry Mail Bags.*

35. The master of any vessel or aircraft, not being a mail vessel or aircraft ordinarily authorised to carry mail, which is about to depart from any port, harbour or airport in Swaziland, to any other place, whether within or without Swaziland, shall receive on a board any mail bag tendered to him by an authorised officer for conveyance, granting a receipt therefore in such form as the Managing Director may require, and shall without delay deliver it to the post office nearest to the port or place to which such mail bag is consigned.

*Reception of Postal Articles on Board Vessels.*

36. (1) Any authorised officer may attend at or on board any vessel after the time for closing the mail by such vessel and receive, subject to the other provisions of this Act, all postal articles fully prepaid as required by this Act which may be brought to him up to the time of departure to be transmitted by such vessel; and the master of such vessel shall receive all such postal articles from such officer and shall deliver them to the post office nearest to the port or place to which they are consigned.
- (2) If there be no authorised officer at or on board such vessel the master may receive all such postal articles and shall deal with them in accordance with subsection (1).

*Payment to Masters, etc., for Conveyance of Mail Bags, etc.*

37. (1) The Corporation may determine, either generally or in particular cases, the amounts to be paid to masters, owners or agents of vessels or aircraft ordinarily authorised to carry mail, for the conveyance of mail bags and postal articles.
- (2) Before payment under subsection (1) is made the Managing Director may require the master of any such vessel or aircraft to produce a certificate from the post office of destination that such mail bags or postal articles have been received from him.
- (3) No amount shall be payable under this section:-
  - (a) unless application is made for payment within twelve months of the date of despatch of such mail bags or postal articles; or
  - (b) if there has been an unreasonable delay on the part of the master in delivering such mail bags or postal articles at the post office of destination; or

- (c) if such bags or postal articles have been damaged in transit, unless the master proves to the satisfaction of the Managing Director that such damage was not due to any fault or lack of sufficient care on his part.
- (4) If the master of any such vessel or aircraft satisfies the Managing Director that he will not return to Swaziland within twelve months, or such shorter time as the Managing Director may determine, the Managing Director may make payment in advance.

*Exemption from Liability of the Corporation.*

38. (1) Save in so far as it is otherwise provided in regulations made under this Act, the Corporation shall not incur any liability:-
- (a) by reason of the loss, misdelivery or delay of, or damage to any postal article in course of transmission by post; or
  - (b) by reason of the interception, detention or disposal of any postal article in accordance with the provisions of this Act.
- (2) Save in so far as it is otherwise provided in regulation made under this Act, the corporation shall not incur any liability by reason of the wrong payment of a money order.

*Withholding Postal Articles Until Postage, etc., is Paid*

39. If any person refuses to pay any postage or other sum which he is legally bound to pay in respect of any postal article, the managing Director may, without prejudice to any other method of recovery, withhold from that person any postal article, not being an article designated as being sent in the service of the Government, addressed to that person, until such postage or other sum is paid.

*Refund a Wrong Payment of Money Order.*

40. Where any person receives:-
- (a) any amount paid to him in respect of a money order by an employee of the Corporation in excess of that which ought to have been paid to him in respect thereof; or
  - (b) any amount in respect of a money order paid to him by an employee of the Corporation instead of to some other person to whom it ought to have been paid, the Managing Director may call upon him to refund immediately to the Corporation the amount of the wrong payment.

*Proof of Return, etc., of Postal Article.*

41. In every proceeding for the recovery of any postage or other charge alleged to be due under this Act in respect of a postal article:-
- (a) the production of a postal article having thereon the official mark of the Corporation or the signature or the initials of an employee of the Corporation denoting that the article has been refused, returned unopened or unclaimed, or that the addressee is dead or cannot be found, shall be prima facie evidence of the fact so denoted;
  - (b) the person from whom the postal article purports to have come shall, until the contrary is proven, be deemed to be the sender thereof; and
  - (c) the production of a postal article having thereon the official mark of the Corporation denoting that any postage or other charge is due in respect thereof to the Corporation or to the postal administration of any foreign country shall be conclusive evidence for all purposes that the sum so denoted is due.

*Postage Stamps, etc., Deemed Stamps for Purposes of Revenue.*

42. Postage stamps, any envelopes, wrappers or forms prestamped for postage and international reply coupons provided for under this Act, and postal franks and impressions of franking machines issued under this Act, shall be deemed to be postage stamps for the purpose of revenue within the criminal law.

*Regulations for Postal Services.*

43. (1) The Minister may make regulations generally with respect to postal services and, without prejudice to the generality of the foregoing, with respect to: -
- (a) the disposal of undelivered postal articles;
  - (b) the licensing and use of franking machines for prepayment of postage and the use of postal franks;
  - (c) declaring what articles may be transmitted as postal articles, and what articles are prohibited from being so transmitted;
  - (d) specifying the condition for the perforation or defacement of postage stamps and the conditions on which postage stamps may be accepted or refused in payment of postage or other charges;
  - (e) specifying the conditions on which compensation may be paid for the loss of or damage to any postal article;
  - (f) specifying the conditions for the registration and insurance of postal articles;
  - (g) specifying the conditions for the issue and payment of money orders and postal orders at post offices;
  - (h) specifying the conditions subject to which any postal article in the course of transmission by post may be re-delivered to the sender without reference to the consent of the addressee; and
  - (i) specifying the conditions for the acceptance of cash-on-delivery postal articles.
- (2) All regulation made under this section shall be published in the Post Office Guide.
- (3) The Corporation shall include in the Post Office Guide:-
- (a) a declaration of the adoption of regulations agreed upon by the Universal Postal Union in relation to the transmission of postal articles or any part or modification of them;
  - (b) a statement of the rates of postage and other charges determined by the Corporation under section 24;
  - (c) a statement of the manner in which amendments to the Guide will be published; and
  - (d) such other information as the Managing Director may think fit to include.

*Unlawful Opening or Delivery, etc., of Postal Articles.*

44. Any person who being an employee of the Corporation or being employed in connection with postal services:-

- (a) opens or permits to be opened any postal article otherwise than in accordance with the provisions of this Act;
- (b) knowingly reveals, discloses or in any way makes known the contents of or any information in relation to, any postal article opened under the authority of this Act, otherwise than in accordance with the law;
- (c) knowingly destroys, detains or secrets any mail bag or postal article otherwise than in accordance with this Act;
- (d) knowingly permits any unauthorised person to interfere in any way with any mail bag or postal article;
- (e) fraudulently or with intent to deceive prepares, alters, secrets or destroys any document used for the purpose of postal services, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Fraud in Connection with Official Marks or Postage.*

45. Any person who, being an employee of the Corporation or being employed in connection with postal services:-
- (a) fraudulently puts any official mark on any postal article;
  - (b) fraudulently alters, removes or erases any official mark or postage stamp is on a postal article;
  - (c) knowingly demands or receives from any person any sum of money in respect of postage or other charges thereof which is not chargeable under this Act, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Issuing Money Orders with Fraudulent Intent.*

46. Any person who, being an employee of the Corporation or being employed in connection with postal services, with intent to defraud issues any money order, postal order or valuable security shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Fraudulently Sending Unpaid Postal Articles.*

47. Any person whom being an employee of the Corporation or employed in connection with postal services, sends by post or puts into any mail bag any postal article upon which the postage has not been paid or charged as required by this Act, intending thereby to defraud the Corporation of the postage on such postal article, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or both such fine and imprisonment.

*Authorised Agent Selling At Wrong Rate.*

48. Any person appointed by the Managing Director as an authorised agent under section 23 who sells any article mentioned in that section at a rate other than that fixed by the Corporation shall be guilty of an offence and liable to a fine not exceeding two hundred Emalangeni or to imprisonment for a term not exceeding six months to both such fine and imprisonment.

*Unlawfully Conveying Letters.*

49. Any person who contravenes any of the provisions of section 22 shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or ten Emalangeni for each letter unlawfully collected, conveyed, distributed or delivered, whichever is the greater, or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Transmitting Prohibited Articles, etc., by Mail.*

50. Any person who:-

- (a) sends by post any postal article which is prohibited from being so transmitted by regulations under this Act;
- (b) sends by post, otherwise than in accordance with any regulations made under this Act, any postal article containing any noxious, explosive or dangerous substance which would be liable to damage any other postal article;
- (c) subscribes on the outside of any postal article, or makes in any declaration relating to a postal article, any statement which he knows or has reason to believe to be false, which he does not believe to be true, in relation to the contents or the value thereof; or
- (d) with intent to defeat the course of justice sends by post any postal article containing with respect to which, or in connection with which, any offence to his knowledge has been or is being committed, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangi or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Transmitting Seditious Matter by Post.*

51. Any person who without lawful excuse, the proof of which shall lie on the person charged, sends or procures to be sent by post a postal article which has thereon or enclosed therein any word, drawing or picture of a seditious, scurrilous, threatening, obscene or grossly offensive character shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangi or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Fraudulently removing or Using Postage Stamps.*

52. (1) Any person who, with intent to defraud:-

- (a) removes from any postal article any postage stamp affixed thereon;
- (b) removes from any postage stamp previously used any mark made thereon at a post office; or
- (c) knowingly used a postage stamp which has been obliterated or defaced by a mark made thereon at a post office, proof that the person charged is the writer of the address on the postal article on which such postage stamp is affixed shall be prima facie evidence that he is the person who used the postage stamp.

*Unlawful Opening, etc., of Postal Articles, etc.*

53. Any person who, not being an employee of the Corporation or not being employed in connection with postal services:-

- (a) opens any postal article, otherwise than in accordance with this Act;
- (b) interferes in any way with any mail bag or postal article otherwise than in accordance with this Act;
- (c) knowingly reveals, discloses or in any way makes known the contents of, or any information of this Act, otherwise in accordance with the law;
- (d) fraudulently puts, alters, removes or erases any official mark on a postal article;

- (e) maliciously and without authority, the proof of which the authority shall lie on the person charged, opens destroys, detains or secretes any article after it has been transmitted by post and before it has been delivered to the addressee;
- (f) without the authority of the Managing Director, the proof of which authority shall lie on the person charged, knowingly enters any premises used for the purpose of postal services and to which the public has no right of access;
- (g) refuses or fails to leave any such premises when called upon to do so by an authorised employee of the Corporation; or
- (h) wilfully, and unlawfully obstructs or impedes any employee of the Corporation, or any other person, in the discharge of this duties in connection with postal service.

Shall be guilty of an offence and liable to a fine not exceeding two hundred Emalangeni or to imprisonment for a term not exceeding, one year or to both such fine and imprisonment.

*Improper Use of Certain Words, etc.*

54. Any person who, without the authority of the Managing Director, the proof of whose authority shall lie on the person charged:-
- (a) places or maintains, or permits to be placed or maintained, in, or near any place under the control of such person the words “post office” or the words “letter box” accompanied with words, letters or marks which signify or imply, or may reasonably lead any member of the public to believe, that any place is a post office or that any receptacle is so provided by the authority of the Managing Director;
  - (b) places or maintains, or permits to be placed or maintained, on any vehicle or vessel under the control of such person the words “postal service” or any word, letter or mark which signify or imply , or may reasonably lead any member of the public to believe, that the vehicle or vessel is used for the conveyance of mails;
  - (c) places or maintains, or permits to be placed or maintained, in, on, or near the house or premises of such person the words “licensed to sell stamps” or any word, letter or mark which signifies or implies, or may reasonably lead any member of the public to believe, that he is licensed to sell unused postage stamps;
  - (d) sells, or offers or exposes for sale, any unused postal stamps provided under this Act;
  - (e) uses any franking machine otherwise than in accordance with the conditions attaching to the use of such machine; or
  - (f) uses any postal frank otherwise than in accordance with the regulations governing its use, shall be guilty of an offence and liable to a fine not exceeding two hundred Emalangeni or to imprisonment for a term not exceeding six months or both such fine and imprisonment.

*Damaging Property Used for Postal Services.*

55. Any person who:-
- (a) wilfully destroys or damages any property used in connection with postal services provided by the Corporation;
  - (b) wilfully destroys or damages any post office letter box or any card or notice relating to postal services provided by the Corporation or obliterates any letter or figure on any such thing; or
  - (c) wilfully places in or against any post office letter box any fire or match, or any explosive, dangerous, noxious or deleterious substance or nay fluid or filth, shall be guilty of an

offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment; and in addition the court may order him to pay to the Corporation a sum equal to the cost of repairing any damage so caused and such sum shall be recoverable in the same manner as if it were a fine.

*Unauthorised Affixing to Post Office or Letter Box.*

56. Any person who, without the authority of the Managing Director, the proof of whose authority shall lie on the person charged, affixes or attempts to affix any placard, board, advertisement, notice, document, paint or other thing to any post office or post office letter box shall be guilty of an offence and liable to a fine not exceeding fifty Emalangeni or to imprisonment not exceeding one month or to both such fine and imprisonment.

*Failure to Comply with Undertaking.*

57. Any person who, having given the undertaking referred to in section 32, fails or refuses to comply therewith, shall be guilty of an offence and liable to a fine not exceeding fifty Emalangeni or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

*Offences by Master or Agent*

58. Any master or agent of a vessel or an aircraft:-
- (a) who omits to give notice in accordance with section 34;
  - (c) which departs prior to the time mentioned in such notice, or
  - (c) who contravenes any of the provisions of sections 33,35, or 36 shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni.

**PART V – TELEPHONE SERVICES**

*Exclusive Privilege to Provide Telephone Services.*

59. (1) The Corporation shall have the exclusive privilege of providing telephone services and of constructing, maintaining and operating telephone apparatus within Swaziland:

Provided that the Managing Director may:-

- (i) in accordance with regulations made under section 63 exempt from the provisions of this subsection the construction, maintenance and operation of telephone apparatus by such persons, or of such classes and descriptions of persons or apparatus, as may be specified in the regulations, either absolutely or subject to such conditions as may be specified;
  - (iii) grant a licence to any person to construct, maintain and operate a telephone apparatus;
    - (a) for the purpose of his private or business affairs; or
    - (b) for the purpose of telephone communication by members of the public between any place in Swaziland and any foreign country.
- (2) A telephone line may be issued subject to such conditions as the Managing Director may think fit, including the payment of any prescribed fee, the purposes for which, the person by whom and the circumstances in which the telephone apparatus may be constructed.

- (3) A telephone licence shall, unless previously revoked by the Managing Director, continue in force for such period as may be specified in the licence.
- (4) A telephone licence may be revoked, or the conditions thereof varied, by a notice in writing from the Managing Director served on the holder of the licence.
- (5) Where any telephone licence is granted to a person for the purposes of telephone communication with any place outside Swaziland, the Managing Director shall include in such licence provision whereby any person within Swaziland may, subject to such reasonable conditions as may be determined have telephone communication with any place outside Swaziland to which the holder of the licence is authorised to operate telephone services; and for such purpose the Managing Director shall make all necessary arrangements for the connection of the telephone services provided by the Corporation with those provided by the holder of the licence.

*Powers of the Corporation on Occurrence of Public Emergency.*

60. (1) On the occurrence of any public emergency or in the interest of public safety and tranquillity, the Minister responsible for internal security may, by order in writing, direct:-
  - (a) any authorised employee to take temporary possession of any telephone apparatus constructed, maintained or operated by any person within Swaziland; or
  - (b) that any communication over the telephone service provided by the Corporation within Swaziland or by the holder of any telephone licence within Swaziland to or from any person or class of persons, or relating to any particular subject, shall be intercepted and disclosed to any person specified in the direction.
- (2) A certificate signed by the Minister responsible for internal security shall be conclusive proof of the existence of a public emergency or that any act done under subsection (1) was in the interest of public safety and tranquillity.

*Secrecy of Telephone Communication.*

61. Subject to this Act, no employee of the Corporation nor any person in the employment of the holder of a public telephone licence shall:-
  - (a) intercept any communication between other persons over the telephone services save in so far as such interception is necessary for the proper working of those services; or
  - (b) disclose any such communication or information in relation thereto of which he is aware save in accordance with the order of any court.

*Exemption from Liability for Telephone Services.*

62. Save in so far as it is otherwise provided in regulations made under section 63, the Corporation shall not incur any liability:-
  - (a) by reason of any interruption, whether total or partial, in telephone services;
  - (b) by reason of any delay in the connection of any telephone with another telephone for the purpose of the telephone communication, or of any conditions which result in any such telephone communication being satisfactory or of any such telephone communication being accidentally overheard by any person; or
  - (c) by reason of the interception or disclosure, in accordance with this Act, of any telephone communication.

*Regulations for Telephone Services.*

63. (1) The Minister may make regulations generally with respect to the construction, maintenance and operation of any telephone apparatus and, without prejudice to the generality of the foregoing, with respect to:-
- (a) the conditions on which telephone services may be provided by the Corporation or by the holder of any public telephone licence; and
  - (b) the conditions on which any telephone licence may be granted under this Act.
- (2) Subject to sections 5 and 6, the Corporation may determine the charges to be made for any telephone service provided or the fees to be paid for any telephone licence and shall publish such charges and fees in the Post Office Guide.

*Unlawful Operation, etc., of Telephone Apparatus.*

64. Any person who, unless exempted under regulations made under section 63, constructs, maintains or operates any telephone apparatus otherwise than under and in accordance with, the provisions of any telephone licence, shall be guilty of an offence and liable to a fine of five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Offences by Employees of the Corporation, etc.*

65. Any person, being an employee of the Corporation or a person employed by the holder of a public telephone licence, who, being employed in connection with telephone services:-
- (a) contravenes any of the provisions of section 61;
  - (c) permits any other person to intercept any communication over telephone services otherwise than in accordance with this Act;
  - (d) knowingly permits any unauthorised person to interfere in any way with any telephone apparatus used in connection with telephone services;
  - (e) with intent to defraud or deceive prepares, alters, secretes or destroys any document used for the purpose of telephone services;
  - (f) knowingly demands or receives from any other person any sum of money in respect of the use by such other person of telephone services which is not chargeable under this Act; or
  - (g) with intent to defraud or deceive, uses or permits to be used telephone services for private communications without payment, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Unlawfully Damaging Telephone Apparatus, etc.*

66. Any person who, without the authority of the Managing Director or, in the case of the holder of a public telephone licence, that holder, the proof of whose authority shall lie on the person charged:-
- (a) wilfully destroys or damages any telephone apparatus used in connection with telephone services;
  - (b) interferes in any way with any telephone apparatus used in connection with telephone services with the intention of preventing or obstruction the transmission or receipt of any telephone communication;
  - (c) intercepts any telephone communication made over telephone services; or

- (d) knowingly reveals, discloses or in any way makes known the contents of or any information in relation to any telephone communication intercepted or disclosed by him under section 60 otherwise than in accordance with the law, shall be guilty of an offence and liable to a term of imprisonment not exceeding two years; and in addition the court may order him to pay to the Corporation a sum equal to the cost of repairing any damage so caused and such sum shall be recoverable in the same manner as if it were a fine.

**Unlawful Presence on Premises used for Telephone Services, etc.**

67. Any person who:-

- (a) without the authority of the Managing Director, or, in the case of the holder of a public telephone licence, that holder, the proof of whose authority shall lie on the person charged, knowingly enters any premises used for the purposes of telephone services and to which the public have no right of access;
- (b) refuses or fails to leave any such premises when called upon to do so by an authorised employee of the Corporation or, in the case of the holder of a public telephone licence, by a person in the employment of such holder; or
- (c) wilfully and unlawfully obstructs or impedes any employee of the Corporation or any person in the discharge of his duties in connection with telephone services, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Offences by Electricity Undertakers.*

68. Any person who, being required under section 19 to give any notice to the Managing Director:-

- (a) contravenes any of the provisions of subsection (1) of that section;
- (b) proceeds with the execution of any work in contravention of the provision of subsection (4) of that section; or
- (c) omits to comply with any requirements in contravention of the provisions of subsection (6) of that section, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni.

*Defacing, etc., Building and Telephone Apparatus.*

69. Any person who, without the authority of the Managing Director, the proof of whose authority shall lie on the person charged, affixes or attempts to affix any placard, board, advertisement, notice, document, paint or other thing to any building or telephone apparatus provided by the Corporation, shall be guilty of an offence and liable to a fine not exceeding fifty Emalangeni or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

**PART VI – TELEGRAPH SERVICES**

*Exclusive Privilege to Provide Telegraph Services.*

70. (1) The Corporation shall have the exclusive privilege of providing telegraph services and of constructing, maintaining and operating telegraph apparatus withing Swaziland:

Provided that the Managing Director may:-

- (j) in accordance with regulations made under section 76 exempt from the provisions of this subsection the construction, maintenance and operation of telegraph apparatus by such persons, or for such classes or descriptions of persons or apparatus as may be

specified in the regulations, either absolutely or subject to such conditions as may be specified;

- (ii) grant a licence to any person to construct, maintain and operate telegraph apparatus;
  - (a) for the purposes of his private or business affairs;
  - (b) for the purposes of telegraph communications by members of the public between any place within Swaziland and any place outside Swaziland.
- (2) A telegraph licence may be issued subject to such conditions as the Managing Director may think fit, including the payment of any prescribed fee, the purpose for which, the persons by whom and the circumstances in which telegraph apparatus may be used and the places in or along which the telegraph apparatus may be constructed.
- (3) A telegraph licence shall, unless previously revoked by the Managing Director, continue in force for such period as may be specified in the licence.
- (4) A telegraph licence may be revoked, or the conditions thereof varied, by a notice in writing from the Managing Director served on the holder of the licence.
- (5) Where any telegraph licence is granted to a person for the purposes of telegraph communication with any place outside Swaziland, the Managing Director shall include in such licence provision whereby any person within Swaziland may, subject to such reasonable conditions as may be determined send telegrams to or receive telegrams from any place outside Swaziland to which the holder of the licence is authorised to operate telegraph services; and for such purposes the Managing Director shall make all necessary arrangements whereby such telegrams may be transmitted within Swaziland by means of the telegraph services provided by the Corporation.

#### Powers of Corporation on Occurrence of Public Emergency

71. (1) On the occurrence of any public emergency or in the interest of public safety or tranquillity, the Minister responsible for internal security may, by order in writing, direct:-
- (a) any authorised employee to take temporary possession of any telegraph apparatus constructed, maintained or operated by any person within Swaziland; or
  - (b) that any telegram or class of telegram to or from any person or class of persons, or relating to any particular subject, brought for transmission or in the course of transmission within Swaziland shall not be transmitted, shall be detained or shall be disclosed to any person specified in the direction.
- (2) For the purposes of this section, a certificate signed by the Minister responsible for internal security shall be conclusive proof of the existence of a public emergency, or that any act done under subsection (1) was in the interest of public safety or tranquillity.

#### Secrecy of Telegrams

72. Subject to this Act, no employee of the Corporation or any person in the employment of a holder of a public telegraph licence shall:-
- (a) refuse to transmit any telegram brought for transmission to any place within which telegraph communications are established; or
  - (b) disclose the contents of, or any information in relation to, any telegram to any person other than the sender or addressee thereof save in so far as such disclosure is necessary for the purposes of the working of telegraph services;

Provided that the contents of any telegram shall be disclosed:-

- (i) in accordance with the order of any court; or
- (ii) on the written request of the sender or the addressee of the telegram.

*Exemption from Liability for Telegraph Services*

73. Save in so far as it is otherwise provided in regulations made under section 76, the Corporation shall not incur any liability:-
- (a) by reason of the interruption, whether total or partial, of telegraph services;
  - (b) by reason of any delay in the transmission of any telegram or by reason of any error in, omission from, or non-delivery or misdelivery of any telegram; or
  - (c) by reason of the non-transmission, detention or disclosure of any telegram in accordance with this Act.

*Exemption from Liability for Defamatory Telegrams.*

74. Neither the Corporation nor any employee of the Corporation nor the holder of any public telegraph licence nor any person employed in connection with the telegraph services shall be liable in any legal proceedings, civil or criminal, by reason of the transmission in the normal course of the telegraph services of any defamatory telegram.

*Transcript of Telegram to be Prima Facie Evidence.*

75. The transcript of every telegram after transmission and before delivery thereof to the addressee shall be stamped or initialled by the employee of the Corporation receiving such telegram delivery, and such transcript purporting to be so stamped or initialled shall be admissible in any legal proceedings and shall be prima facie evidence:-
- (a) that the message stated in such transcript is the same as that stated in the original telegram delivered from transmission, and
  - (b) that such original telegram was duly signed and delivered from transmission by the person by whom such transcript purports to be signed, and it shall not be necessary to prove the signature of the person purporting to sign the original telegram or that it was delivered for transmission or that the transcript was so stamped or initialled.

*Regulations for Telegraph Services.*

76. (1) The Minister may make regulations generally with respect to telegraph services and to the construction, maintenance and operation of telegraph apparatus and, without prejudice to the generality of the foregoing, with respect to:-
- (a) holder of any public telegraph licence;
  - (b) the conditions on which any telegraph licence may be granted under this Act; and
  - (c) the period after which, and the conditions on which, telegrams and other documents relating to telegraph services may be destroyed.
- (2) Subject to sections 5 and 6, the Corporation may determine the charges for telegraph services and the fees for the issue of telegraph licences and shall publish such charges and fees in the Post Office Guide.

*Unlawful Operation of Telegraph Service.*

77. Any person who, unless exempted under regulations made under section 76, constructs, maintains or operates any telegraph apparatus otherwise than under and in accordance with the provisions of any telegraph licence, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Offences by Employees of the Corporation, etc.*

78. Any person, being an employee of the Corporation or a person employed by the holder of a public telegraph licence, who, being employed in connection with telegraph services:-
- (a) contravenes any of the provisions of section 72;
  - (b) permit any other person to intercept or to ascertain the contents of any telegram otherwise than in accordance with this act;
  - (c) knowingly permits any unauthorised person to interfere in any way with any telegraph apparatus used in connection with telegraph services;
  - (d) with intent to defraud or deceive, alters any telegram which he has received for transmission;
  - (e) wilfully detains or fails to transmit, otherwise than in accordance with this Act, any telegram which he has received for transmission;
  - (f) with intent to defraud or deceive, prepares, alters, secretes or destroys any document used for the purpose of telegraph services; or
  - (g) knowingly demands or receives from any other person any sum of money in respect of the use by such other person of the telegraph services, or in respect of the receipt by such other person of any telegram which is not chargeable under this Act, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Fraudulently Sending Unpaid Telegrams*

79. Any person, being an employee of the Corporation or a person employed by the holder of a public telegram licence, who, being employed in connection with telegraph services, transmits by means of telegraph services any telegram upon which the due charges have not been paid or charged, intending thereby to defraud the Corporation or the holder of a public telegraph licence, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Forgery of Telegrams*

80. Any person who:-
- (a) forges or, with intent to deceive, alters any telegram;
  - (b) utters any telegram knowing it to be forged or altered with intent to deceive; or
  - (c) with intent to deceive, delivers any telegram for transmission which he knows contains any false or fabricated message, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

*Unlawfully Damaging, etc., Telegraph Apparatus*

81. Any person who, without the authority of the Managing Director, or in the case of the holder of a public telegraph licence, that holder, the proof of whose authority shall lie on the person charged:-
- (a) wilfully destroys or damages any telegraph apparatus used in connection with telegraph services;
  - (b) interferes in any way with any telegraph apparatus used in connection with telegraph services with the intention of preventing or obstructing the transmission or receipt of any telegram.
  - (c) intercepts any telegram being transmitted by means of telegraph services;
  - (d) knowingly reveals, discloses or in any way makes known the contents of or any information relating to any telegram intercepted or disclosed by him under section 71 otherwise than in accordance with the law, shall be guilty of an offence and liable to a term of imprisonment not exceeding two years; and in addition the court may order him to pay to the Corporation a sum equal to the cost of repairing any damage so caused and such sum shall be recoverable in the same manner as if it were a fine.

*Unlawful Receiving or Destroying Telegrams.*

82. Any person who:-
- (a) by any false pretence receives any telegram which he knows is not intended for him; or
  - (b) knowingly destroy, detains or fails to deliver any telegram received by him for delivery to the addressee, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangenis or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Unlawful Presence on Premises Used for Telegraph Services, etc.*

83. Any person who:-
- (a) without the authority of the Managing Director or, in the case of the holder of a public telegraph licence, that holder, the proof of whose authority shall lie on the person charged, knowingly enters any premises used for the purposes of telegraph services and to which the public have no right of access;
  - (b) refuses to or fails to leave any such premises when called upon to do so by an authorised employee of the Corporation or, in the case of a holder of a public telegraph licence, by a person in the employment of the holder; or public telegraph licence, by a person in the employment of the holder; or
  - (c) wilfully and unlawfully obstructs or impedes any employee of the Corporation or any other person in the discharge of his duties in connection with telegraph services, shall be guilty of an offence and liable to a fine not exceeding a hundred Emalangenis or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Making False Telegrams or Marks.*

84. Any person who, without the authority of the Managing Director, the proof of whose authority shall lie on the person charged:-
- (a) with intent to deceive makes or issues any document which signifies or implies, or may reasonably lead any member of the public to believe, that the document has been issued by the Corporation in connection with telegraph services;

- (b) with intent to deceive makes on any document any mark purporting to be a mark used by the Corporation in connection with telegraph services or any mark which may reasonably lead any member of the public to believe the mark was made by the Corporation in connection with telegraph services; or
- (c) with intent to deceive, utters or uses any such document on which there is any such mark, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

#### Defacing Buildings and Telegraph Apparatus

85. Any person who, without the authority of the Managing Director, the proof of which authority shall lie on the person charged, affixes or attempts to affix any placard, board, advertisement, notice, document, paint or other thing to any building or telegraph apparatus used in connection with telegraph services provided by the Corporation shall be guilty of an offence and liable to a fine not exceeding fifty Emalangeni or to imprisonment for a term not exceeding one month or to both such fine and imprisonment.

### **PART VII – RADIO COMMUNICATION**

#### *Licensing of Radio Communication*

86. (1) Any person who:-
- (a) establishes or uses any radio communication station or possesses radio communication apparatus without a licence issued by the Managing Director; or
  - (b) sells or lets on hire or otherwise disposes of any radio communication apparatus to any person, unless such person holds a valid licence in respect of such apparatus, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment:

Provided that the Managing Director may in accordance with regulations made under section 89 exempt from the provisions of this subsection such classes or descriptions of persons, radio communication stations or radio communication apparatus as may be specified in such regulations either absolutely or subject to such conditions as may be specified.

- (2) A radio communication licence may be granted subject to such conditions, including the payment of any prescribed fee, as the Managing Director may think fit including in particular, in the case of a licence to establish a station, conditions as to the nature and position of the station, the purpose for which, the circumstances in which and the persons by who, the station may be used and the radio communication apparatus which may be installed or used therein; and, in the case of any other licence, conditions as to the radio communication apparatus which may be installed or used, the places where, the purposes for which the circumstances in which and the persons by whom such apparatus may be used.
- (3) A radio communication licence shall, unless previous revoked by the Managing Director, continue in force for such period as may be specified in the licence.
- (4) A radio communication licence may be revoked, or the conditions thereof varied, by a notice in writing from the Managing Director served on the holder of the licence or by a general notice applicable to licences of the class to which the licence in question belong published in such a manner as may be specified in the licence.
- (5) Where a radio communication licence has expired, or has been revoked, it shall be the duty of the person to whom the licence was granted, and of every other person in whose possession or under whose control the licence may be, to cause the licence to be surrendered to the Managing Director if required by the Managing Director so to do:

Provided that this subsection shall not apply to a licence relating solely to radio communication apparatus not designed or adapted for emission.

- (6) Nothing in this section shall authorise the inclusion in any radio communication apparatus not designed or adapted for emission of any condition requiring any person to concede any form of right of entry into any private dwelling house.

*Experimental Licences.*

87. (1) Subject to this section, where an application for the grant or renewal of a radio communication licence is made to the Managing Director by any person and the Managing Director is satisfied that the only purpose for which the applicant requires the licence is to enable him to conduct experiments in radio communication for the purpose of scientific research, the Managing Director shall not refuse to grant or renew the licence and shall not revoke the licence when granted, and no sum shall be payable under the regulation made under section 89 otherwise than on the grant or renewal of the licence.
- (2) Nothing in subsection (1) shall prevent the Managing Director from refusing to grant or renew, or from revoking, any radio communication licence if, whether before or after the grant or last renewal of the licence, the applicant has been convicted of any offence under this Act whether in relation to any radio communication apparatus covered by such licence or any other radio communication apparatus, or has contravened any of the conditions of that or any other radio communication licence granted him, or has been convicted of using any apparatus for the purpose of interfering with any radio communication.
- (3) Nothing in subsection (1) shall limit the discretion of the Managing Director as to the conditions which he attaches to any radio communication licence or his power to vary the conditions of any such licence.

*Powers of Corporation on Occurrence of Public Emergency.*

88. (1) On the occurrence of any public emergency or in the interest of public safety or tranquillity, the Minister responsible for internal security may, by order in writing, direct:-
  - (a) any authorised employee to take temporary possession of any radio communication station within Swaziland and the apparatus which may be installed or used therein; and
  - (b) that any communication or class of communication shall or shall not be emitted from such station or apparatus.
- (2) A certificate signed by the Minister responsible for internal security shall be conclusive proof of the existence of a public emergency or that any act done under subsection (1) was in the interest of public safety or tranquillity.

*Regulations for Radio Communication.*

89. The Minister may make regulations generally with respect to the regulation of radio communication other than radio communication restricted to the receiving of public broadcasting and, without prejudice to the generality of the foregoing, with respect to:-
  - (a) the fees or sums to be paid by a person to whom a radio communication licence is granted on the grant or renewal or such licence or at such times thereafter as may be prescribed by the regulation and the conditions on which any such licence may be granted, renewed or revoked;
  - (b) the things which are to be done or are not to be done in connection with the use of any station or radio communication or radio communication apparatus and, in particular,

requiring the use of any such station or apparatus to cease on the demand in that behalf of any authorised employee;

- (c) imposing on the person to whom a radio communication licence is granted with respect to any station for radio communication or radio communication apparatus, or who is in possession or control of any station for radio communication apparatus, obligations as to permitting and facilitating the inspection of the station and apparatus as to the conditions in which the station and apparatus is kept and, in the case of a station or apparatus for the establishment, installation or use of which a radio communication licence is necessary, as to the production of the licence or such other evidence of the licensing of the station or apparatus as may be prescribed by the regulations;
- (d) where such sums are or may become due from the person to whom a radio communications licence is granted after the grant or renewal thereof, requiring that person to keep and produce such accounts and records as may be specified in the regulations;
- (e) requiring the person to whom a radio communications licence authorising the establishment or use of a station has been granted to exhibit at the station such notice as may be specified in the regulations;
- (f) regulating the use on board any vessel or aircraft, other than a vessel or aircraft registered and licenced in Swaziland, within the limits of Swaziland and the territorial waters adjacent thereto of radio communication apparatus on board such vessel or aircraft; and
- (g) controlling the importation, acquisition, manufacture and sale, letting on hire or other disposition of radio communication apparatus of any kind, or the possession, use or installation of such, and different provision may be made by such regulations for different classes of case:

Provided that nothing in any such regulation shall require any person to concede any form of right of entry into a private dwelling house for the purpose of permitting or facilitating the inspection of any communication apparatus not designed or adapted for emission.

*Regulation for Radiation of Electro-Magnetic Energy, etc.*

90. (1) The Minister may make regulations:-
- (a) prescribing the requirement to be complied with in the use of any apparatus to which this section applies;
  - (b) prescription the requirements to be complied with in the case of any apparatus to which this section applies if the apparatus is to be sold or offered or advertised for sale otherwise than for export, or let on hire or offered or advertised for letting on hire by any person who in the course of business manufactures, assembles or imports such apparatus.
- (2) The requirements referred to in subsection (1) shall be such requirements as shall ensure that the use of the apparatus does not cause undue interference with radio communication and may in particular include:-
- (a) requirements as to the maximum intensity of electro-magnetic energy of any specified frequencies which may be radiated in any direction from the apparatus while it is being used; and
  - (b) in the case of any apparatus the power for which is supplied from electric supply lines, requirements as to maximum electro-magnetic energy of any specified frequencies which may be injected into those lines by the apparatus, and different requirements may be prescribed for different circumstances and in relation to different classes or descriptions of apparatus, different districts or places and different times of use.

- (3) The apparatus to which this section applies shall be such apparatus, other than radio communication apparatus, as may be specified in the regulations made thereunder, being apparatus generating, or designed to generate or liable to generate fortuitously, electromagnetic energy at frequencies of not more than three million megahertz per second and references in this subsection to apparatus include references to any form of electric supply line.
- (4) It shall not be unlawful for any person to use any apparatus to which this section applies or to sell, offer, advertise for sale, let on hire or offer or advertise it for letting on hire by reason only that it does not comply with the requirements applicable under any regulations made under this section but such non-compliance shall be a ground for the giving of a notice under section 91 or 92 as the case may be.

*Enforcement of Regulations on the Use of Apparatus*

91. (1) If the Managing Director is of the opinion:-
- (a) that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in section 90(1) (a); and that
  - (b) (i) either the use of the apparatus is likely to cause undue interference with any radio communication used for the purpose of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend;
  - (ii) or the use of apparatus has caused or is causing undue interference with other radio communication under circumstances where all reasonable steps to minimise interference have been taken in relation to the situation or apparatus receiving such radio communication, he may serve on the person in whose possession the apparatus is a notice in writing requiring that, after a date fixed by the notice, not being less than twenty-eight days from the date of the service thereof, the apparatus shall not be used, whether by the person to whom such notice is given or otherwise or shall only be used in such manner, at such times and in such circumstances as may be specified in the notice:

Provided that:-

- (i) if, before, the date fixed by the notice, a notice is given under sub-section (3) requiring the Managing Director to refer the matter to the Appeal Tribunal provided for in section 93, the Managing Director's notice shall not operate until the termination of the proceedings before such tribunal, and any notice given under this subsection by the Managing Director, other than a notice to which paragraph (ii) of this proviso applies, shall be framed accordingly; and
  - (ii) if the Managing Director is satisfied that the use of the apparatus in question is likely to cause undue interference with any radio communication used for the purpose of any safety of life service or for any purpose on which the safety of any person or of any vessel, aircraft or vehicle may depend the date to be fixed by the notice may be the date of the service thereof and paragraph (i) of this proviso shall not apply.
- (2) A notice under subsection (1) may be revoked or varied by a subsequent notice in writing by the Managing Director served on the person in whose possession the apparatus then is:

Provided that where a notice under this section has the effect of imposing any additional restrictions on the use of the apparatus, the provisions of subsection (1) relating to the coming into force of notice shall apply in relation to the notice as if had been a notice served under that subsection.

- (3) Where notice has been given under this section (1), any person having possession of or any interest in the apparatus to which the notice relates may at any time, whether before

or after the date fixed by such notice, by notice in writing served on the Managing Director require him to refer the matter to the Appeal Tribunal, and the Managing Director, unless he revokes the notice given under subsection (1) or modifies it to the satisfaction of such person, shall refer the matter to such Tribunal accordingly; and this subsection shall apply in relation to a notice under subsection (1) which has been varied by a subsequent notice as it applies in relation to a notice under subsection (1) which has been varied by a subsequent notice as it applies in relation to a notice which has not been so varied.

- (4) On any such reference the Appeal Tribunal shall hear the Managing Director and the person at whose instance the reference was made and any other person appearing to be interested who desires to be heard and has, in accordance with rules regulating the procedure of the Appeal Tribunal, been accepted as a party to the reference and:-
  - (a) if it is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations it shall direct the Managing Director to revoke the notice.
  - (b) If it is satisfied that such requirement ought properly to be relaxed in relation to the apparatus may direct the Managing Director to revoke the notice or to vary it such manner as may be specified in the direction, and the Managing Director shall revoke or vary the notice accordingly:

Provided that the making by the Appeal Tribunal of a direction under this subsection, or the refusal by such Tribunal to make any such direction, shall not, where there has been a material change of circumstances, prevent any person mentioned in subsection (3) from giving further notice thereunder and shall not in a like case prevent the Managing Director from giving a further notice under subsection (1) or subsection (2).

- (3) A direction given under subsection (4) may be absolute or may be conditional on such steps being taken in relation to the apparatus being made to comply with such requirements as may be specified in the direction, and any question as to whether or not such steps have been taken or whether or not the apparatus has been made to comply with those requirements shall, on the application of the Managing Director or of any person having possession of or interest in the apparatus, be determined by the Appeal Tribunal.

*Enforcement of Regulations as to Sales, etc., by Manufacturers and others*

92. (1) If the Managing Director is of the opinion that any apparatus does not comply with the requirements applicable to it under regulations made for the purpose specified in section 90 (1) (b), he may serve on any person who has manufactured, assembled or imported such apparatus in the hours of business a notice in writing prohibiting him from selling the apparatus otherwise than for export or offering or advertising it for sale otherwise than for export or letting it on hire or offering or advertising it for letting on hire.
- (2) Where a notice has been served under subsection (1) the person on whom the notice has been served may, by notice in writing served on the Managing Director, require him to refer the matter to the Appeal Tribunal and the Managing Director, unless he revokes such notice, shall refer the matter to the Appeal Tribunal accordingly.
  - (3) On any such reference, the Appeal Tribunal shall hear the Managing Director and the who desires to be heard and has, in accordance with rules regulating the procedure of the Appeal Tribunal, been accepted as a party to the reference; and, if it is satisfied that the apparatus in question complies with the requirements applicable to it under the regulations shall direct the Managing Director to revoke the notice and he shall revoke it accordingly:

Provided that the making by the Appeal Tribunal of a direction under this subsection shall not where the apparatus is subsequently altered, prevent the Managing Director from serving a fresh notice under

subsection (1) with respect to the apparatus; and the refusal by the Appeal Tribunal to make a direction under this subsection shall not, where the apparatus is subsequently altered, prevent the Managing Director from revoking the notice or the person on whom the notice was served from giving a further notice under subsection (2).

*Establishment and Constitution of Appeal Tribunal*

93. (1) For the purposes of sections 90, 91 and 92 there shall be established an Appeal Tribunal which shall consist of :-
- (a) a chairman who shall be a person who qualifies to practice in Swaziland as an attorney or an advocate; and
  - (b) two other members who are persons possessing in the opinion of the Minister expert knowledge of the matters likely to come before the Appeal Tribunal and who are not in the employment of the Government or the Corporation.
- (2) The chairman and the other members of the Appeal Tribunal shall be appointed by the Minister in consultation with the Attorney-General and the provisions set out in the Second Schedule shall have effect in relation to the constitution, procedure and sittings of the Appeal Tribunal.
- (3) The Minister may, but Notice in the Gazette, amend the Second Schedule.

*Application of Certain Provisions*

94. (1) Subject to this section, the provisions of sections 86, 87, 88, 89, 95 and 96 shall apply:-
- (a) to all radio communication stations and radio communication apparatus in or over, or for the time being in or over, Swaziland or the territorial waters thereof.
  - (b) subject to any limitations which the Minister may by regulations made under section 89 determine, to all radio communication stations and radio communication apparatus on board any vessel or aircraft which is registered in Swaziland but is not for the time being in or over Swaziland or the territorial waters thereof; and
  - (c) subject to any limitations which the Minister may by regulations made under section 89 determine, to all radio communications apparatus which is not in or over Swaziland or the territorial waters thereof but is released from within Swaziland or the territorial waters thereof or from any vessel which is registered or licensed in Swaziland, and without prejudice to the liability of any other person for contravention of any of the provisions of such sections, or of any regulations made thereunder, the master of a vessel or aircraft in respect of which such contravention occurs shall be guilty of an offence under this Act:

Provided that:-

- (i) the master of a vessel or aircraft shall not be guilty of any offence under this Act by reason of any contravention of the provisions of such sections or regulations occurring in relation to radio communications apparatus on board the vessel if the contravention consists of the use by a passenger on board the vessel or aircraft of radio communication apparatus not designed or adapted for emission which is not part of the radio communication apparatus of the vessel or aircraft; and
- (ii) save as is provided in the regulations made under section 89, nothing in sections 86 to 98 shall operate so as to impose any prohibition or restriction on persons using radio communication apparatus on board any vessel or aircraft other than a vessel or aircraft registered or licensed in Swaziland.

*Unlawfully Using Radio Communications Apparatus, etc.*

95. Any person who:-

- (a) contravenes any regulations made under section 89 or causes or permits apparatus to be established or used in contravention of such regulation or the terms of any licence issued in respect thereof; or
- (b) without reasonable cause contravenes section 86 (5), shall be guilty of an offence and liable to a fine not exceeding six month or to both such fine and imprisonment:

Provided that if any such offence consists of a contravention of section 86(5) the offender shall, in the case of a first offence only, be liable to a fine not exceeding fifty Emalangeni or to imprisonment for a term not exceeding one moth or to both such fine and imprisonment.

*Unlawfully Sending Misleading or Other Messages, etc.*

96. Any person who:-

- (a) contravenes any of the provisions of any order made under section 88 (1) (b);
- (b) by means of radio communication, sends or attempts to send any message which to his knowledge is false or misleading and is to his knowledge likely to prejudice the efficiency of any safety of life service or endanger the safety of any person, or of any vessel, aircraft or vehicle, and, in particular, any message which to his knowledge falsely suggests that a vessel or aircraft is in distress or in need of assistance or is not in distress or not in need of assistance; or
- (c) otherwise than under the authority of the Managing Director either:-
  - (i) uses any radio communication apparatus with intent to obtain information as to the contents sender or addressee of any message, whether sent by means of radio communication or not, which neither the person using the apparatus nor any person on whose behalf he is acting is authorised by the Managing Director to receive; or
  - ii) except in the course of legal proceedings or for the purpose of any report thereon, discloses any information as to the contents, sender or address of any such message, being information which would not have come to his knowledge but for the use of radio communication apparatus by him or by another person, shall be guilty of an offence and liable to a fine not exceeding five hundred Emalangeni or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

*Use or Sale, etc., of Apparatus in Contravention of Notice*

97. Any person who:-

- (a) knowing that a notice of the Managing Director under section 91 is in force with respect to any apparatus, uses that apparatus or causes or permits it to be used in contravention of the notice; or
- (b) having been served with a notice under section 92 (1), contravenes any of the provisions thereof prior to any revocation thereof by the Managing Director, shall be guilty of an offence and liable to a fine not exceeding two hundred Emalangeni or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

*Interference with Radio Communications*

98. (1) Any person who uses any apparatus for the purpose of interfering with any radio communication shall be guilty of an offence and liable to a fine not exceeding two

hundred Emalangeni or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

- (2) This section shall apply whether or not the apparatus in question is radio communication apparatus or apparatus to which any of the provisions of sections 86 to 97 apply, and whether or not any notice under section 91 or 92 has been given with respect to the apparatus or, if given, has been varied or revoked.

### **PART VIII – SAVINGS BANK**

#### *Power to act as agent of a Bank*

99. Subject to the approval of the Minister, the Corporation may act in Swaziland as agent of a bank which operates a savings bank.

### **PART IX – FINANCIAL AND ACCOUNTING PROVISIONS RELATING TO THE CORPORATION.**

#### *Conduct of Financial Affairs of the Corporation.*

100. (1) In discharging its duties it shall be the object of the Corporation so to perform its functions as to ensure that taking one year with another the revenue of the Corporation exceed the outgoings of the Corporation properly chargeable to revenue account with a margin of profit whose percentage shall be determined by the Board and approved by the Minister, due regard being given to the necessity of fulfilling and undertaking by the Corporation in any loan agreement.
- (2) For the purposes of subsection (1), “the outgoings of the Corporation properly chargeable to revenue account” means charges which within the normal conduct of business are properly chargeable to revenue account including in particular provisions for:-
- (a) the depreciation of assets or the redemption of any loan raised by the Corporation, whichever is greater; and
  - (b) allocations to reserve.
- (3) The Corporation shall endeavour to ensure that the tariffs charged for its services shall be so fixed as to enable it to operate at a profit.
- (4) The Corporation shall keep accounts in conformity with accepted commercial principles and shall make such financial provisions as may be necessary from time to time for the proper and efficient discharge of its duties.

#### *Transfer and Vesting of Assets and Liabilities, etc.*

101. (1) On a day to be appointed by the Minister by notice in the Gazette, hereinafter referred to as “the appointed day”, there shall be transferred to, and vested in, the Corporation, by virtue of this section and without further assurance, such assets and liabilities of the Government connected with the Department as the Minister may determine and from that day the Corporation shall, in respect of the assets and liabilities so transferred and vested, have all the rights and be subjected to all the liabilities which the Government has or is subject to, immediately before that day.
- (2) The assets referred to in subsection (1) shall include:-
- (a) all dwelling houses and other premises which immediately before the appointed day, are under the control and management of the Department;
  - (b) all assets and rights which are accounted for in the Post Office Special Fund Regulations 1973 at the valuation stated in the audited accounts of that Fund and any reserve fund for the period immediately before the appointed date.

- (3) In the case of property deemed to have been transferred to and vested in the Corporation pursuant to this Act, in respect of the transfer of which any law provides for registration, it shall be the duty of the proper officer of the appropriate registration authority, upon written request made by or on behalf of the Corporation, to make such entries in the appropriate register as are required by law to give effect to such transfer and, where appropriate, to issue the Corporation a certificate of title in respect to such property or to make the necessary amendments to the register, as the case may be, and to make any consequential endorsements on the deeds relating to the title, right or obligation concerned.
- (4) On or after the appointed day, every contract entered into by or on behalf of the Government in connection with the Department (whether in writing or not and whether or not of such a nature that rights and liabilities thereunder can be assigned by the Government or the Department) shall, as the Minister may determine and notify to the other party thereto, have effect as if made by or on behalf of the Corporation and as if for references therein to the Government or any officer or authority thereof, there were substituted, in relation to anything falling to be done on or after the appointed day, references to the Corporation and to the corresponding officer or authority of the Corporation.
- (5) Any legal proceedings by or against the Government in connection with the Department and in relation to that Department which are pending on the appointed day shall be continued by or against the Corporation and a certificate of the Minister that the Corporation is, for the purpose of such proceeding, the proper body to continue such proceedings or to defend them, shall in any proceedings before any court be conclusive to that effect.

#### *Funds, Assets, Resources and Liabilities*

102. The funds, assets, resources and liabilities of the Corporation consist of:-

- (a) the funds, assets, rights, liabilities and obligations transferred in accordance with the provisions of section 101;
- (b) all moneys or property that may from time to time be donated, lent or granted to the Corporation:
  - (i) by Government;
  - (ii) by another Government or by a person or by an international organisation;
- (c) all property and investments acquired by or vested in the Corporation and all money earned or arising therefrom;
- (d) all sums from time to time received or falling due to the Corporation in respect of the repayment of any loan or advance made by the Corporation or the interest payable in respect of any such loan or advance.;
- (e) moneys raised or borrowed with the approval of the Minister by the Corporation; and
- (f) all other moneys or property that may in any manner become payable to or vested in the Corporation in respect of any matter incidental to its purpose, powers and duties.

#### *Investments*

103. The Corporation may invest all or any of its moneys not required for the performance of its purposes, powers and duties:-

- (a) in the purchase of any security issued, or in any deposit account maintained by Government or by any Government of a country approved by Government;
- (b) in any security in which a trustee may invest under the provision of any law in force in Swaziland;
- (c) in deposits in any bank or building society;
- (d) in any other securities approved either generally or specifically by the Minister of Finance in writing.

*Borrowing Powers.*

104. (1) The Corporation may:-

- (a) borrow temporarily, by the way of bank overdraft or otherwise, such sums as it may require for meeting its obligations or exercising or performing its functions; and
- (b) from time to time for such purposes and in such amounts and to such conditions as the Minister, with the concurrence of the Minister of Finance, may approve:-
  - (i) raise money by ways of loans, or
  - (ii) issue stock or bonds notes.
- (2) The repayment of moneys borrowed by the Corporation and the payment of interests thereon and all charges connected with such borrowing shall be a liability of the Corporation and shall be charged on its property, assets and revenue.

*Appropriation of Profits and Exemption from Taxes, etc.*

- 105 (1) All incomes and property and all profits of the Corporation from whatever source they may be acquired, may be applied exclusively to the promotion of the purpose of the Corporation.
- (2) Notwithstanding anything to the contrary in any other law the Corporation shall not be liable to income tax, transfer duty, stamp duty, rates, motor vehicle registration and licensing fees and shall not be necessary for the Corporation to take out any trading licence in connection with its activities.

*Making Good of Deficits.*

106. (1) If the Corporation is required by Government to provide any service or facility either gratuitously or at a tariff which is insufficient to meet the costs involved in the provision of such service or facility, the Corporation shall as soon as practicable after the end of each financial year prepare and account, showing as nearly as can be ascertained, the amount of the loss incurred by reason of the provision of such service or facility.
- (2) The Minister shall submit the account on behalf of the Corporation to Government and the amounts of the said loss shall be paid to the Corporation by the Government.

*Compensation for Certain Services.*

107. Compensation for services provided on or after the fixed date by the Corporation to or on behalf of any Ministry or Department, or by any Ministry or Department to or on behalf of the Corporation, shall be paid in accordance with normal accounting procedure.

*Financial year.*

108. (1) The financial year of the Corporation shall run from 1<sup>st</sup> April to 31<sup>st</sup> March of the following year:

Provided that the first financial year may be longer or shorter than twelve months if the Minister so determines.

*Annual Report and Audit.*

109. (1) The Corporation shall cause proper books of account to be kept, as well as all the necessary books and records in connection therewith.
- (2) The accounts of the Corporation shall be subject to annual audit by an auditor appointed by it and approved by the Minister. In as much as public funds may be involved or pledged the Auditor General shall have the right of access to the books of account and other relevant records of the Corporation and shall be given such explanations as he may require in this respect.
- (3) The Corporation shall, not later than three months after the end of each financial year or such longer period as the Minister may determine:-
- (a) report to the Minister in such form as he may direct on the exercise and performance by it of its functions during the last year and on its future policy and programme; and
- (b) deliver to the Minister a copy of its accounts, audited in accordance with the provisions of subsection (2).
- (4) The Minister shall lay copies of all duly audited accounts before Parliament at its first sitting after he has received them.
- (5) None of the following persons shall be qualified for appointment as auditors of the Corporation:-
- (i) an officer or servant of the Corporation;
- (ii) a person who is a partner of an officer or servant of the Corporation;
- (iii) a person who is an employer or an employee of an officer or servant of the Corporation
- (v) a person who is an officer or servant of a body corporate which is an officer or servant of the Corporation;
- (vi) a person who by himself, or his partner, or his employee regularly performs the duties of secretary or book-keeper to the Corporation.

*Powers of Auditor.*

110. (1) The auditor may by writing and under his hand require the production of all books, deeds, contracts, vouchers, receipts and other documents relating to the accounts or investments of the Corporation that he may deem necessary for the purpose of the audit.
- (2) Such auditor may by notice in writing summon all such persons as may appear to him to have knowledge of the affairs of the Corporation to appear before him personally at the offices of the Corporation at a time to be fixed in that notice for examination in connection with any documents or matter relating to the audit.
- (3) Subject to the provisions of subsections (4) and (5) any person to whom subsection (2) applies shall be guilty of an offence and shall be liable to conviction to a fine of one

hundred Emalangeni or to imprisonment for six months, or both, if, without just cause, the proof whereof shall lie on him he:-

- (a) fails or refuses to produce any document that he has been duly required by the auditor to produce; or
  - (b) fails or refuses to comply with notice summoning him to appear before the auditor; or
  - (c) refuses to be examined by the auditor after having appeared before him on a notice summoning him to appear; or
  - (d) refuses to answer questions pertaining to the audit that are put to him by the auditor after that person has appeared before him on a notice summoning him to appear; or
  - (e) having appeared before the auditor on a notice summoning him to appear, makes any statement pertaining to the audit that he knows or believes to be false or that he does not know or believe to be true.
- (4) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the auditor is entitled in respect of such evidence or the disclosure of any communication, or the production of any such paper, book, record or document, to the same right or privilege as before a court of law.
- (5) A conviction under this section shall not exempt, or be taken to exempt, the person convicted from the liability to do or perform the act, matter or thing required of him except as provided in subsection (4).

## **PART X – MISCELLANEOUS**

### **STAFF**

#### *Appointment of Staff*

111. (1) Subject to this Act, the Corporation may appoint such employees of the Corporation as may be necessary for its efficient working under such terms and conditions, including conditions relating to discipline and dismissal, as it may think fit.
- (2) The Managing Director may, by notice in writing, authorise any employee under this section to maintain order upon any premises occupied by the Corporation and any employees so authorised shall in the performance of such duty have all the powers, rights privileges and protection of a police officer.

#### *Regulations Relating to Staff*

112. Subject to this Act, the Minister may make regulations generally relating to the conditions of service of employees and without prejudice to the generality of the foregoing may make regulations relating to:-
- (a) the grant of pensions, gratuities and other retiring allowances to employees and their dependants and the grant of gratuities to the estate or dependants of deceased employees;
  - (b) the establishment and maintenance of sick funds, superannuation and provident funds and the contributions payable therefore and the benefits receivable therefrom;
  - (c) the liability or otherwise to assignment, attachment, sequestration, or other levy of sums payable to an employee, or other persons, under regulations made under this section.

*Powers of Corporation in Respect of Employees.*

113. (1) Subject to subsection (4) and to such regulations as may be made under section 112 the Corporation may in respect of its officers and employees prescribe the general conditions of service and disciplinary measures and may remunerate, discharge, or suspend them temporarily, and indemnify them in respect of any harm, damage or loss suffered by them in the course of the performance of their duties.
- (2) The Corporation may cause any member, officer, agent or servant of the Corporation to enter into a fidelity bond.
- (3) The Corporation may, subject to the Swaziland National Provident Fund Order, 1974 (Order No. 23 of 1974) and any other law, establish and maintain such pensions, superannuation, provident and other funds as it may consider desirable for the provision of payments or other allowances on death, sickness, injury, superannuation, resignation or retirement or discharge of its officers and servants; and may take rules providing for the payments of moneys out of the revenue of the Corporation to such funds and providing for the contribution of moneys to such funds by the officers and employees of the Corporation; and may contract with an insurance company or other body for the maintenance of such funds.
- (4) Any person in the employment of the Department of Posts and Telecommunications of the Ministry of Works, Power and Communications at the date of coming into force of this Act shall, subject to the terms and conditions set forth in the Third Schedule to this Act, forthwith become an employee of the Corporation .

*Property of Corporation in the Custody of Employee, etc.*

114. (1) Where any employee of the Corporation dies or leaves the service of the Corporation and at the time of such death or termination of services any property of the Corporation was in his possession or custody or any premises of the Corporation where occupied by him, it shall be the duty of such employee, or in the event of his death, of the person in whose possession such property may be or who may be occupying such premises, as soon as practicable to deliver such property to the Corporation or to vacate such premises.
- (2) If any property of premises to which subsection (1) refers is not delivered to the Corporation or vacated, the Managing Director shall give notice in writing to the person appearing to him to be in possession of such property or in occupation of such premises to deliver to the Corporation such property or to vacate such premises within such time as may be specified in the notice; and if such property is not delivered or such premises vacated within such time, the Managing Director may, without prejudice to any other means of recovery, apply to a magistrate for an order empowering a police officer to enter and search any house or building where such property is believed to be and to deliver such property if found to the Corporation or, as the case may require to evict from such premises any person found therein.

**PART XI – LEGAL PROVISIONS**

*Delegation and Signification.*

115. (1) The Board and the Managing Director may, in writing, delegate to any person any of the powers vested in them under this Act and may grant to any person powers of attorney.
- (2) Any act or decision, or the notification thereof, of the Board or the Managing Director under this Act may be signified under the hand of an employee of the Corporation authorised for that purpose.

### *Compensation*

116. (1) In the exercise of the powers conferred by sections 15, 16 and 18 the Corporation shall do as little damage as possible and where any person suffers damage no action or suit shall lie but he shall be entitled to such compensation therefore as may be agreed between him and the Corporation or, in default of agreement, as may be determined by a single arbitrator appointed by the Chief Justice.
- (2) Nothing in this section shall be construed as entitling any person to compensation:-
- (a) for any damage suffered unless he would have been entitled thereto otherwise than under the provisions of this section; or
  - (b) for any damage suffered as a result of the user of any works authorised under this Act unless such damage results from negligence in such user.

### *Limitation*

117. Where any action or other legal proceeding is commenced against the Corporation for any act done in pursuance or execution, or intended execution, of this Act or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the following provisions shall have effect:-
- (a) the action or legal proceeding shall not be commenced against the Corporation until at least one month after written notice containing the particulars of the claim, and of intention to commence the action or legal proceedings, has been served upon the Managing Director by the plaintiff or his agent;
  - (b) the action or legal proceedings shall not lie or be instituted unless it is commenced within twelve months next after the act, neglect or default complained of or, in the case of a continuing injury or damage, within six months next after the cessation thereof.

### *Restriction on Execution Against Property of Corporation*

118. Notwithstanding anything to the contrary in any law:-
- (a) where any judgement or order has been obtained against the Corporation, no execution or attachment, or process in the nature thereof, shall be issued against the Corporation or against any property of the Corporation; but the Managing Director shall, without delay cause to be paid out of the revenue of the Corporation such amounts as may, by the judgement or order, be awarded against the Corporation to the person entitled thereto;
  - (b) no property of the Corporation shall be seized or taken by any person having by law power to attach or distrain property without the previous written permission of the Managing Director.

### *Services of Notices, etc., on Managing Director*

119. Any notice or other document required or authorised under this Act to be served on the Corporation, or the Managing Director, may be served:-
- (a) by delivery of the notice or other document to the Managing Director or to any authorised employee; or
  - (b) by leaving it at the office of the Managing Director; or
  - (c) by sending it by post to the Managing Director.

*Service of Notices by Managing Director.*

120. Any notice or other document required or authorised under this Act to be served on any person by the Corporation or the Managing Director or any employee may be served:-
- (a) by delivering it to that person; or
  - (b) by leaving it at the last usual or last known place of abode of that person;
  - (c) by sending it by post addressed to that person at his usual or last known address.

*Offences by Bodies Corporate and Forfeiture of Apparatus.*

121. (1) Where any offence under this Act has been committed by a body corporate other than the corporation, every person who at the time of the commission of the offence was a director, general manager, secretary, or other similar officer of such body corporate, or was purporting to act in any capacity, shall be deemed also to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his function in that capacity and to all the circumstances.
- (2) Where a person is convicted of an offence under this Act in relation to the lawful use of any telephone apparatus, telegraph apparatus or radio communications apparatus, or the use of any apparatus for the purpose of interfering with any radio communication, the court may, in addition to any other penalty, order all or any of the apparatus in connection with which the offence was committed to be forfeited to the Corporation.

*Place of Trial.*

122. (1) Any person charged with any offence under this Act may be proceeded against, tried and punished in any place within Swaziland where he may be in custody for that offence as if the offence had been committed in such place; and the offence shall for all purposes incidental to, or consequential upon, the prosecution, trial or punishment thereof be deemed to have been committed in that place.
- (2) Nothing contained in this section shall preclude the prosecution, trial and punishment of such person in any place which, but for the provisions of this section, such person might have been prosecuted, tried and punished.

**PART XII – REPEAL**

*Repeal*

- 123 (1) The following Acts are hereby repealed:-
- (a) The Post Office Act, 1962 (Act No. 60 of 1962);
  - (b) The Telegraph Messages Protection Act, 1902 (Act No. 48 of 1902); and
  - (c) The Censorship of Telecommunications Act, 1914 (Act No. 61 of 1914).
- (2) Notwithstanding the repeal of the Acts set out in subsection (1)-
- (a) all subsidiary legislation made thereunder shall continue in force until replaced by any other legislation made under this Act and shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to give effect to this Act;

- (b) all unexpired licences issued in accordance with those Acts or any regulations made thereunder shall continue to be valid unless otherwise revoked under this Act.

## **FIRST SCHEDULE**

(Under section 12)

*Provisions as to the Board and the Corporation.*

1. The Chairman and the directors appointed under paragraph (e) of section 4 shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years and on such terms as may be determined in the instruments of their appointment, and shall be eligible for reappointment.
2. Each director referred to in paragraph 1 may:-
  - (a) resign his office by notice to the Minister in writing at any time;
  - (b) be removed from office by the Minister in writing if he:-
    - (k) has been absent from two consecutive meetings of the Board without permission of the Board; or
    - (ii) is incapacitated by prolonged physical or mental illness; or
    - (iii) is otherwise unable or unfit to discharge his functions.
3. Each of the directors mentioned in paragraphs (c) and (d) of section 4 may, from time to time, depute in writing a senior officer of his Ministry to attend meetings of the Board in his place and the officer so deputed shall at such meetings have the same powers as the director.
4. (1) The Board shall meet for the despatch of business at such times and places as it shall appoint, or failing any such appointment, as the Chairman shall appoint.  
(2) The Board shall meet no less than six times in any financial year.
5. The Chairman and any three directors may, by not less than twenty-four hours written notice to all other directors, summon a special meeting of the Board at the headquarters of the Corporation at any time.
6. Except where a shorter period is appointed under paragraph 4 or 5 of this Schedule, notice of the date, time and place of each meeting shall be given in writing at least five clear days beforehand to every director at such address in Swaziland as he shall have notified to the Corporation from time to time:

Provided that the failure of any director to receive such notice shall not invalidate any proceedings.

7. The quorum necessary for the transaction of business by the Board shall be four members.
8. The Chairman shall preside at meetings of the Board:

Provided that if he is not present at the start or any time during a meeting, the directors present, if they constitute a quorum, may choose one of their number, other than the Managing Director, to act as Chairman during the Chairman's absence from the meeting.

9. Questions arising at meetings shall be decided by a majority of the votes of the directors present and voting.

Provided that in the case of any equality of votes, the Chairman of the meeting shall have casting or deliberative vote.

10. The Board shall cause minutes to be kept of all resolutions and proceedings at each meeting and of the directors thereat.
11. Subject to the provisions of this Schedule, the Board may determine its own procedure, and the procedure for any committees of the Board and for the attendance of other persons at its meetings, and may make standing orders in respect thereof.
12. (1) If a director is directly or indirectly interested in any contract, proposed contract, or other matter as is present at a meeting of the Board at which the contract, proposed contract or other matter is a subject of consideration, he shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract or other matter, or be counted in the quorum of the meeting during the consideration of the matter.  
  
(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
13. The affixing of the common seal of the Corporation shall be authenticated by the signature of the Chairman or some other director authorised generally or specially by the Board to act for the purpose, and of an employee of the Corporation authorised generally or specially by the Board to act for the purpose.
14. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Corporation by any person generally or specially authorised by it for that purpose.
15. Any document purporting to be a document duly executed or issued under the seal of the Corporation or on behalf of the Corporation shall be received and be deemed to be a document so executed or issued without further proof unless the contrary is shown.

## **SECOND SCHEDULE**

(Under section 93)

### *The Appeal Tribunal.*

1. The members of the Appeal Tribunal shall be appointed for such period, not exceeding two years, as the Minister may determine and every such member shall hold and vacate his office in accordance with the terms of his appointment.
2. Any member may at any time, by notice in writing to the Minister resign his office.
3. If a member of the Appeal Tribunal becomes a member of the Board, or, in the case of a member other than the Chairman, is appointed to the service of the Government or the Corporation, he shall vacate his office.
4. If any member of the Appeal Tribunal has any interest in any particular proceeding before the Appeal Tribunal he shall so inform the Minister and the Minister may, after considering that interest, appoint another member in his place for the purpose of the particular proceedings.
5. Where the office of any member becomes vacant, whether by death or otherwise, the Minister may appoint another person to be a member of the Appeal Tribunal for the remainder of the term of the member whose office has become vacant.
6. In the event of the inability of any member of the Appeal Tribunal to attend for the purpose of any particular proceedings, the Minister may appoint a temporary member for the purpose of those proceedings.

7. The decision of the Appeal Tribunal shall be that of the majority and shall be signed by the members thereof agreeing thereto.
8. The Appeal Tribunal shall have the powers of the High Court:-
  - (a) to administer oaths to the parties and witnesses to the proceedings;
  - (b) to summon witnesses and to require the production of documents;
  - (c) to order the payment of costs; and the provisions of the law relating to Commissions of Inquiry in Swaziland with respect to:-
    - (i) the protection of the members of the Appeal Tribunal from suit;
    - (ii) the form of summonses to witnesses;
    - (iii) the giving or fabricating of false evidence;
    - (iv) the duty and indemnity of witnesses, and the penalty for contumacy, insult or interruption of proceedings; and
    - (v) the appearance of advocates, shall with any necessary adaptations or modifications, apply to the members of, the witnesses before, and the proceedings before, the Appeals Tribunal in like manner as they apply to the Commission of Inquiry.
9. The Appeals Tribunal shall sit at such place as it may consider most convenient having regard to all circumstances of the particular proceedings.
10. Subject to the provisions of this Schedule, the Appeal Tribunal shall have the power to regulate its procedure.
11. A document purporting to be a copy of any document of the Appeal Tribunal and certified by the chairman to be a true copy thereof, shall in any legal proceedings be prima facie evidence of the matter contained therein.

### **THIRD SCHEDULE**

(Under section 113)

*Terms and Conditions of Transfer of Officers and employees from Public Service to the Service of the Corporation.*

1. On the date of coming into force of this Act, every officer or employee in the public service within the Department shall be deemed to be transferred to the service of the Corporation with effect from that date:

Provided that, notwithstanding this paragraph, an officer or employee, may at any time before the expiry of ninety days from that date and by notice in writing addressed to the Managing Director and the Civil Service Board, elect to remain in the public service and, in that case the Civil Service Board shall assign him nay functions in the public service other than within the service of the Corporation; and

Provided further that if an officer or employee is immediately before the date of coming into force of this Act, serving a period of notice of discharge, resignation or retirement, as the case may be which period expires on or after that date, such notice shall continue to be valid as between such officer or employee and the Government.

2. Where a person is deemed to have been transferred to the service of the Corporation or has elected to remain in the public service, as the case may be, shall continue in such service under terms and conditions of service, as the case may be, he shall continue in such service under

terms and conditions of service which are not less favourable than those applicable to this office immediately before the date of coming into force of this Act.

3. (1) This paragraph applies to any benefit provided for under any law for the grant of pensions, compensation, gratuities or like allowances in the public service and to persons who are deemed to have been transferred to the service of the Corporation in accordance to paragraph 1, in respect of their services as public officers or to the widows, children or personal representatives of such persons in respect of those services.
- (2) Any benefits which have, on the date of coming into force of this Act, accrued to an officer or employee of the Corporation in respect of public service immediately before that date shall be preserved and shall be payable to the officer or employee or to his widow, children or personal representatives out of public funds in accordance with the conditions provided for in sub-paragraph (3).
- (3) The benefits referred to in sub-paragraph (2) shall be paid in accordance with regulations made under sections 111 or 112 of this Act-
  - (a) to person who qualifies in accordance with those Regulations to receive from the Corporation any pension, compensation, gratuity or other retiring allowance; or
  - (b) to his widow, children or personal representatives who qualify in accordance with those Regulations to receive from the Corporation.
4. Every officer or employee in the public service within the Department who is deemed under this Act to have been transferred to the service of the Corporation and who was immediately before the coming into force of this Act a contributor to the Swaziland Widows' and Orphans' Pension Fund established by the Widows' and Orphans' Pensions Act, 1966 (Act. No. 35 of 1996) shall continue to be a contributor to the Fund if his services with the Corporation were services in the public service:-

Provided that if at any time the Corporation establishes a Widow's and Orphans' Pension Scheme, any such officer or servant may elect to become a contributor to the Scheme so established which, for the purposes of paragraph 2 shall be treated as being a term or condition not less favourable.

5. Any leave which on the date of coming into force of this Act, has accrued to and not been taken by any officer or employee and shall thereafter be treated as if it has been earned in the service of the Corporation.
6. For the purpose of carrying out the provisions of this Schedule, the Minister may, after consultation with the Board, issue such directions to the Corporation as he may think fit