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LEGAL NOTICE NO. 201 OF 2017

THE PUBLIC ORDER ACT, 2017
(Act No.12 of 2017)THE CODE OF GOOD PRACTICE ON GATHERINGS NOTICE, 2017
(Under Section 28)

In exercise of the powers conferred by Section 28 of the Public Order Act, No. 12 of 2017, the Prime Minister issues the following Notice -

Citation and commencement.

1. (1) This Notice may be cited as the Code of Good Practice on Gatherings Notice, 2017.
- (2) This Notice shall come into force on the date of publication in the gazette.

Introduction.

2. (1) In an effort to promote respect for peace, harmony and stability and to ensuring that citizens are free to exercise their rights to freedom of expression, association and assembly in terms of the Constitution Act No. 1 of 2005 and the Public Order Act No.12 of 2017 (hereinafter referred to as the "Act"), this Code seeks to provide guidelines on good practice.
- (2) The enjoyment of these rights shall be in terms of the law and non-infringement of other people's rights ought to be observed by those exercising such rights.
- (3) Lawful and peaceful gatherings are protected under the Act, while unlawful gatherings are not protected and matters involving public order, peace and security, are within the jurisdiction of the Police as set out in other relevant legislation.
- (4) The Parties acknowledge that gatherings shall follow the procedures laid down in the Act.
- (5) The Code of Practice for Gatherings (hereinafter referred to as the "Code") is intended to provide practical guidance for holding a gathering.

Scope and Application.

3. (1) This Code applies to the following-
 - (a) employees and employers;
 - (b) employees' and employers' organizations and federations;
 - (c) Government;
 - (d) police;
 - (e) private security personnel;
 - (f) convenors and organisations;

- (g) local authorities; and
- (h) other relevant stakeholders.

(hereinafter referred to as Parties) during gatherings.

(2) This Code shall be taken into account by the courts, local authorities, police and any other person in arriving at a decision in proceedings under the Act.

Objectives.

4. The objectives of the Code are to -
- (a) provide a framework for the orderly and peaceful conduct and management of gatherings;
 - (b) promote safety and public order;
 - (c) ensure that the right to freedom of assembly, association and expression is respected; and
 - (d) promote close co-ordination between the Parties, Government and other agencies as prescribed in this Code.

Role and Conduct of Organisations.

5. The role of convenors and organisers shall be to-
- (a) ensure that a gathering is held in accordance with the provisions of the Act;
 - (b) give notice of a route or location for consultation with the local authority prior to the intended gathering, in terms of the laws;
 - (c) appoint an official chief convenor, chief marshal and marshals who shall oversee the conduct of the gathering;
 - (d) notify the local authority and the police in writing of the contact details of the chief convenor and chief marshal who shall be well versed with the contents of this Code;
 - (e) in the event that a petition will be delivered, notify the recipient parties two days prior to the intended gathering;
 - (f) provide the local authority and the police with the proposed starting and finishing time for each day and also ensure a briefing at the start of each gathering; and
 - (g) ensure that those participating in a gathering do not carry or use any form of offensive weapons such as fire arms, spears, sticks and stones, during a gathering or act contrary to the provisions of section 15 of the Act.

The Role and Conduct of Marshals.

6. The Marshals shall-

- (a) be individuals who are well versed with the provisions of the relevant laws, this Code, and the agreed route or location to ensure that the gathering is conducted peacefully;
- (b) be identifiable with clearly marked arm bands or vests and be available throughout the gathering;
- (c) conduct themselves in a peaceful and lawful manner and be unarmed;
- (d) ensure that the participants do not commit any action which may lead to a breach of peace or is unlawful including, any action which is or may be perceived to be violent or intimidating; and
- (e) co - ordinate with police on the maintenance of law and order before and during the course of a gathering.

The Role and Conduct of the Police.

7. (1) The involvement of the Royal Swaziland Police during a gathering shall be for the purposes of providing protection services and maintaining public order and security.
- (2) The police shall exercise their responsibilities and powers in terms of section 11 of the Act.
- (3) The main role of the Police is to-
- (a) protect and promote constitutional rights for all persons;
 - (b) ensure that the gathering does not lead to any disturbance of public order and safety;
 - (c) uphold the law and may intervene if there is reasonable apprehension of breach of peace and particularly if there is anticipated violence and disorder;
 - (d) take reasonable measures to keep peace, protect the public and enforce criminal law;
 - (e) avoid unlawful interference of a lawful and peaceful gathering;
 - (f) coordinate with the chief convenor and the chief marshal of the gathering;
 - (g) in consultation with the local authority, make security preparation for the route or location where the gathering will take place, including agreeing on the number of lanes to be used to avoid traffic congestion;
 - (h) be stationed at an appropriate distance from the gathering having due regard to public safety and protection of property;
 - (i) in the case of real threats towards public order and security, take the necessary police action in accordance with a firm and measurable manner, proportionate to the circumstances and in accordance with the prevailing laws;

- (j) take compulsory action through summons, arrests, searches, seizures, investigations or detention of any person who is alleged to have committed a crime during a gathering in accordance with the existing laws;
 - (k) ensure compliance with the Police Act and Code of Ethics; and
 - (l) inform members of the public on an intended gathering.
- (4) Police deployed in an area to handle a gathering, shall-
- (a) act in a professional and proportionate manner;
 - (b) remain impartial in dealing with the Parties to the controversy; and
 - (c) have a principle that all Parties are equal before the law.
- (5) The Police have a responsibility to enforce criminal law and may arrest participants who are involved in violent conduct or attending a gathering armed with dangerous weapons, or otherwise in contravention of section 15(3) of the Act.

Role and Conduct of Government.

7. The responsibility of Government is to-
- (a) promote harmonious relations so as to attain economic and social stability and development;
 - (b) ensure a conducive and an enabling environment to the enjoyment of the right to freedom of association, assembly and expression;
 - (c) protect and promote constitutional rights of all persons;
 - (d) ensure that all existing legislation is aligned to the Constitution and is in conformity with international standards and jurisprudence;
 - (e) be transparent and open in addressing the issues of concern timeously upon receipt of any petition envisaged by relevant laws; and
 - (f) make proper arrangements to receive a petition prior to its delivery.

Role and Conduct of a Private Security Personnel.

8. Private security personnel shall-
- (a) ensure adherence to the provisions of this Code;
 - (b) in protecting and securing the safety of people and property, use only sufficient and reasonable force necessary to overcome the risk or danger posed by hostile participants; and
 - (c) be subsidiary to members of the Royal Swaziland Police Service on matters pertaining to law enforcement and crime prevention.

Responsibilities of all the Parties.

9. The responsibilities of all the Parties are to-

- (a) respect the law of the land and ensure that any gathering is conducted in an orderly and peaceful manner;
- (b) observe and respect the constitutional rights of those who are not party to the gathering;
- (c) develop clear lines of communication amongst the Parties involved;
- (d) agree on how to deal with individuals who deviate from the objectives or cause disturbance to the lawful and peaceful running of a gathering, who are either part or not part of the gathering; and
- (e) educate their members and the general public on the provisions of this Code.

Consultations and planning for envisaged gathering.

10. (1) A notice to hold a gathering shall be served on the local authority in terms of section 6 of the Act.

(2) Not less than two (2) days prior to the commencement of the envisaged gathering, the local authority shall where it deems necessary convene a consultative planning meeting with the convenors of the proposed gathering after giving notice to the convenors and organizations responsible for the gathering and other relevant stakeholders, but in the event that any party fails to attend, the meeting shall proceed in their absence.

(3) Not less than one (1) day before the commencement of the gathering, the local authority may convene the last and final formal briefing and planning meeting.

(4) Two days after the gathering, the local authority may convene a debriefing meeting with the convenors, municipalities, and other stakeholders.

(5) Where a convenor has given less than four (4) days' notice and if deemed necessary by the local authority to consult, the consultation meeting shall be held no less than 24 hours before the intended gathering.

Spontaneous Gatherings.

11. (1) A spontaneous gathering does not require a notice and shall be held as an immediate response to an occurrence that could not reasonably have been foreseen by those convening or holding the gathering.

(2) Save for the non- requirement to serve a notice, a person taking part in a spontaneous gathering shall comply with the other provisions of the Act concerning maintenance of law and order, destruction of property and the obligation to observe the rights of others.

(3) A person taking part in a spontaneous gathering is expected to follow lawful orders from the police where an appropriate determination to disperse or relocate a spontaneous gathering has been made in accordance with section 9 and 11 of the Act.

Breach of the Code.

12. Without prejudice to other remedies provided by other laws, a violation of this Code shall be dealt with in terms of the provisions of the Act.

Amendment.

13. The Minister may, after consultation with the relevant stakeholders, amend this Code.

P.S. DLAMINI
ACTING PRIME MINISTER