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# Lesotho's Constitution of 1993 with Amendments through 2025

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# CHAPTER I. THE KINGDOM AND ITS CONSTITUTION

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## 1. The Kingdom and its territory

- Type of government envisioned

1. Lesotho shall be a sovereign democratic kingdom.
2. The territory of Lesotho shall comprise all the areas that immediately before 4th October 1966 were comprised in the former Colony of Basutoland together with such other areas as may from time to time be declared by an Act of Parliament to form part of Lesotho.

- Constitutionality of legislation

## 2. The Constitution

This Constitution is the supreme law of Lesotho and if any other law is inconsistent with this Constitution, that other law shall, to the extent of the inconsistency, be void.

## 3. Official languages, National Seal, etc

- Official or national languages

1. The official languages of Lesotho shall be Sesotho, English, isiXhosa, isiPhuthi and sign language.
  - 1A. Notwithstanding subsection (1), any of the official languages may be used -
    - a. as a means of communication in legislative, administrative or judicial processes;
    - b. in any transaction, official document or instrument;
    - c. as a medium of instruction for educational purposes; or
    - d. for any other purpose that may be provided for by an Act of Parliament.
  - 1B. A transaction or instrument expressed or conducted in a particular official language pursuant to subsection (1) shall not be declared invalid by reason that it is expressed or conducted in one of the languages.
  - 1C. The Government shall take legislative, administrative and other measures to advance the use and development of the official languages.
  - 1D. The Government shall, in deciding to use a particular language, take the following into account:
    - a. the financial implications of choosing a particular language;
    - b. the balance of the needs and preferences of the population as a whole or population in a particular area;
    - c. the practicality of using a particular language;
    - d. the need for promotion of access to information;
    - e. the local circumstances of a population targeted for business; or
    - f. the need for affirmation and promotion of indigenous languages.
  - 1E. The Government documents shall be translated into at least two official languages.
  - 1F. The Government shall ensure that official Government communication is translated into a sign language and braille subject to subsection (1D).
2. Subject to the provisions of this section, the National Seal of Lesotho shall be such device, and the national anthem and national flag shall be such anthem and flag, as the case may be, as may be prescribed by or under an Act of Parliament.
3. A bill for an Act of Parliament for the purposes of this section shall not be presented to the King for assent unless it is supported at the final voting in the National Assembly by the votes of no less than two-thirds of all the members of the National Assembly.

- National anthem
- National flag

- Supermajority required for legislation

## 3A. Age of majority

1. The age of majority in Lesotho is eighteen years.
2. Every person who has not yet attained eighteen years of age is a minor.

3. A "child" in terms of this Constitution means a person under the age of eighteen years.

## CHAPTER II. PROTECTION OF FUNDAMENTAL HUMAN RIGHTS AND FREEDOMS

### 4. Fundamental human rights and freedoms

1. Whereas every person in Lesotho is entitled, whatever his race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status to fundamental human rights and freedoms, that is to say, to each and all of the following--

- a. the right to life;
- b. the right to personal liberty;
- c. freedom of movement and residence;
- d. freedom from inhuman treatment;
- e. freedom from slavery and forced labour;
- f. freedom from arbitrary search or entry;
- g. the right to respect for private and family life;
- h. the right to a fair trial of criminal charges against him and to a fair determination of his civil rights and obligations;
- i. freedom of conscience;
- j. freedom of expression;
- k. freedom of peaceful assembly;
- l. freedom of association;
- m. freedom from arbitrary seizure of property;
- n. freedom from discrimination;
- o. the right to equality before the law and the equal protection of the law; and
- p. the right to participate in government,

the provisions of this Chapter shall have effect for the purpose of affording protection to those rights and freedoms, subject to such limitations of that protection as are contained in those provisions, being limitations designed to ensure that the enjoyment of the said rights and freedoms by any person does not prejudice the rights and freedoms of others or the public interest.

2. For the avoidance of doubt and without prejudice to any other provision of this Constitution it is hereby declared that the provisions of this Chapter shall, except where the context otherwise requires, apply as well in relation to things done or omitted to be done by persons acting in a private capacity (whether by virtue of any written law or otherwise) as in relation to things done or omitted to be done by or on behalf of the Government of Lesotho or by any person acting in the performance of the functions of any public office or any public authority.

### 5. Right to life

1. Every human being has an inherent right to life. No one shall be arbitrarily deprived of his life.
2. Without prejudice to any liability for a contravention of any other law with respect to the use of force in such cases as are hereinafter mentioned, a person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use of force to such extent as is necessary in the circumstances of the case--
  - a. for the defence of any person from violence or for the defence of property;
  - b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
  - c. for the purpose of suppressing a riot, insurrection or mutiny; or

- Equality regardless of origin
- Equality regardless of skin color
- Equality regardless of language
- Equality regardless of financial status
- Equality regardless of political party
- Equality regardless of gender
- Right to life
- Equality regardless of parentage
- General guarantee of equality
- Freedom of movement
- Freedom of residence
- Equality regardless of religion
- Prohibition of cruel treatment
- Equality regardless of creed or belief
- Prohibition of slavery
- Regulation of evidence collection
- Right to privacy
- Right to fair trial
- Freedom of opinion/thought/conscience
- Freedom of expression
- Freedom of assembly
- Freedom of association
- Protection from expropriation
- General guarantee of equality

- Binding effect of const rights

- Right to life

2. d. in order to prevent the commission by that person of a criminal offence,

or if he dies as the result of a lawful act of war or in execution of the sentence of death imposed by a court in respect of a criminal offence under the law of Lesotho of which he has been convicted.

## 6. Right to personal liberty

1. Every person shall be entitled to personal liberty, that is to say, he shall not be arrested or detained save as may be authorised by law in any of the following cases, that is to say--

- a. in execution of the sentence or order of a court, whether established for Lesotho or for some other country, in respect of a criminal offence of which he has been convicted;
- b. in execution of the order of the court punishing him for contempt of that court or of a tribunal;
- c. in execution of the order of a court made to secure the fulfilment of any obligation imposed on him by law;
- d. for the purpose of bringing him before a court in execution of the order of a court;
- e. upon reasonable suspicion of his having committed, or being about to commit, a criminal offence under the law of Lesotho;
- f. in the case of a person who has not attained the age of eighteen years, for the purpose of his education or welfare;
- g. for the purpose of preventing the spread of an infectious or contagious disease;
- h. in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care and treatment or the protection of the community;
- i. for the purpose of preventing the unlawful entry of that person into Lesotho, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Lesotho or for the purpose of restricting that person while he is being conveyed through Lesotho in the course of his extradition or removal as a convicted prisoner from one country to another; or
- j. to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Lesotho or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person with a view to the making of any such order or relating to such an order after it has been made, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Lesotho in which, in consequence of any such order, his presence would otherwise be unlawful.

- Drugs, alcohol, and illegal substances
- Restrictions on entry or exit
- Power to deport citizens
- Extradition procedure

2. Any person who is arrested or detained shall be informed as soon as is reasonably practicable, in a language that he understands, of the reasons for his arrest or detention.

3. Any person who is arrested or detained--

- a. for the purpose of bringing him before a court in execution of the order of a court; or
- b. upon reasonable suspicion of his having committed, or being about to commit, a criminal offence,

and who is not released, shall be brought before a court as soon as is reasonably practicable, and where he is not brought before a court within forty-eight hours of his arrest or from the commencement of his detention, the burden of proving that he has been brought before a court as soon as is reasonably practicable shall rest upon any person alleging that the provisions of this subsection have been complied with.

4. Where any person is brought before a court in execution of the order of a court in any proceedings or upon suspicion of his having committed or being about to commit an offence, he shall not be thereafter further held in custody in connection with those proceedings or that offence save upon the order of a court.

- Protection from unjustified restraint

- Protection from unjustified restraint

- Right to pre-trial release

5. If any person arrested or detained upon suspicion of his having committed, or being about to commit, a criminal offence is not tried within a reasonable time, then, without prejudice to any further proceedings that may be brought against him, he shall be released either unconditionally or upon reasonable conditions, including in particular such conditions as are reasonably necessary to ensure that he appears at a later date for trial or for proceedings preliminary to trial.

- Protection from false imprisonment

6. Without prejudice to the generality of any other provision of this Constitution or any other law by virtue of which a person is entitled to redress for a contravention of this section, any person who is unlawfully arrested or detained by any other person shall be entitled to compensation from that other person or from any other person or authority on whose behalf that other person was acting.

- Power to deport citizens
- Freedom of movement
- Restrictions on entry or exit

## 7. Freedom of movement

1. Every person shall be entitled to freedom of movement, that is to say, the right to move freely throughout Lesotho, the right to reside in any part of Lesotho, the right to enter Lesotho, the right to leave Lesotho and immunity from expulsion from Lesotho.

2. Any restriction on a person's freedom of movement that is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

3. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--

- for the imposition of restrictions in the interest of defence, public safety, public order, public morality or public health on the movement or residence within Lesotho of any person or any person's right to leave Lesotho;

Provided that a person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in this paragraph except to the extent to which he satisfies the court that the provision or, as the case may be, the thing done under the authority thereof does not restrict the movement or residence within Lesotho or the right to leave Lesotho of the person concerned to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in this paragraph;

- Extradition procedure

- for the imposition of restrictions, by order of a court, on the movement or residence within Lesotho of any person or on any person's right to leave Lesotho either in consequence of his having been convicted of a criminal offence under the law of Lesotho or for the purpose of ensuring that he appears before a court at a later date for trial in respect of such a criminal offence or for proceedings preliminary to trial or for proceedings relating to his extradition or lawful removal from Lesotho;

- for the prohibition from entry into Lesotho of a person who is not a citizen of Lesotho;

- for the imposition of restrictions on the freedom of movement of any person who is not a citizen of Lesotho;

- for the imposition of restrictions on the acquisition or use by any person of land or other property in Lesotho;

- for the imposition of restrictions upon the movement or residence within Lesotho or on the right to leave Lesotho of any public officer;

- for the removal of a person from Lesotho to be tried or punished in some other country for a criminal offence under the law of that other country or to undergo imprisonment in some other country in execution of the sentence of a court in respect of a criminal offence of which he has been convicted under the law of Lesotho; or

- for the imposition of restrictions on the right of any person to leave Lesotho that are necessary in a practical sense in a democratic society in order to secure the fulfilment of any obligations imposed on that person by law.

- Extradition procedure

4. If any person whose freedom of movement has been restricted by virtue of such a provision as is referred to in subsection (3)(a) so requests at any time during

4. the period of that restriction not earlier than one month after the order was made or three months after he last made such a request, as the case may be, his case shall be investigated by an independent and impartial tribunal presided over by a person appointed by the Chief Justice:

Provided that a person whose freedom of movement has been restricted by virtue of a restriction that is applicable to persons generally or to general classes of persons shall not make a request under this subsection unless he has first obtained the consent of the High Court.

5. On any investigation by a tribunal in pursuance of subsection (4) of this section of the case of any person whose freedom of movement has been restricted, the tribunal may make recommendations concerning the necessity or expediency of continuing that restriction to the authority by whom it was ordered and, unless it is otherwise provided by law, that authority shall be obliged to act in accordance with any such recommendations.
6. Nothing contained in or done under the authority of any provision of the customary law of Lesotho shall be held to be inconsistent with or in contravention of this section to the extent that that provision authorises the imposition of restrictions upon any person's freedom to reside in any part of Lesotho.

- Prohibition of cruel treatment
- Prohibition of torture

## 8. Freedom from inhuman treatment

1. No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorises the infliction of any description of punishment that was lawful in Lesotho immediately before the coming into operation of this Constitution.

- Prohibition of slavery

## 9. Freedom from slavery and forced labour

1. No person shall be held in slavery or servitude.
2. No person shall be required to perform forced labour.
3. For the purposes of this section, the expression "forced labour" does not include--
  - a. any labour required in consequence of the sentence or order of a court;
  - b. any labour required of any person while he is lawfully detained that, though not required in consequence of the sentence or order of a court, is reasonably required in the interests of hygiene or for the maintenance of the place at which he is detained;
  - c. any labour required of a member of a disciplined force in pursuance of his duties as such or, in the case of a person who has conscientious objections to service as a member of a military or air force, any labour that that person is required by law to perform in place of such service;
  - d. any labour required during any period when Lesotho is at war or a declaration of emergency under section 23 of this Constitution is in force or in the event of any other emergency or calamity that threatens the life or well-being of the community, to the extent that the requiring of such labour is reasonably justifiable, in the circumstances of any situation arising or existing during that period or as a result of that other emergency or calamity, for the purpose of dealing with that situation; or
  - e. any labour reasonably required by law as part of reasonable and normal community or other civic obligations.

- Right to conscientious objection

- Emergency provisions

- Right to privacy
- Regulation of evidence collection

## 10. Freedom from arbitrary search or entry

1. Every person shall be entitled to freedom from arbitrary search or entry, that is to say, he shall not (except with his own consent) be subjected to the search of his person or his property or the entry by others on his premises.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in

2. question makes provision--
  - a. in the interests of defence, public safety, public order, public morality, public health, town and country planning, the development or utilisation of mineral resources or the development or utilisation of any other property in such a manner as to promote the public benefit;
  - b. for the purpose of protecting the rights or freedoms of other persons;
  - c. that authorises an officer or agent of the Government of Lesotho or of a local government authority or of a body corporate established by law for public purposes to enter on the premises of any person for the purpose of inspecting those premises or anything thereon in connection with any tax, rate or due or for the purpose of carrying out work connected with any property that is lawfully on those premises and that belongs to that Government, authority or body corporate, as the case may be; or
  - d. that authorises, for the purpose of enforcing the judgement or order of a court in any civil proceedings, the entry upon any premises by order of a court.
3. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the freedom guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b), (c) or (d).

- Right to privacy

## 11. Right to respect for private and family life

1. Every person shall be entitled to respect for his private and family life and his home.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. in the interests of defence, public safety, public order, public morality or public health; or
  - b. for the purpose of protecting the rights and freedoms of other persons.
3. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the right guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for the purpose specified in subsection (2)(b).

## 12. Right to fair trial, etc

- Right to fair trial
- Right to speedy trial
- Judicial independence
- Presumption of innocence in trials
- Trial in native language of accused
- Right to counsel
- Right to examine evidence/witnesses
- Trial in native language of accused

1. If any person is charged with a criminal offence, then, unless the charge is withdrawn, the case shall be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.
2. Every person who is charged with a criminal offence--
  - a. shall be presumed to be innocent until he is proved or has pleaded guilty;
  - b. shall be informed as soon as reasonably practicable, in a language that he understands and in adequate detail, of the nature of the offence charged;
  - c. shall be given adequate time and facilities for the preparation of his defence;
  - d. shall be permitted to defend himself before the court in person or by a legal representative of his own choice;
  - e. shall be afforded facilities to examine in person or by his legal representative the witnesses called by the prosecution before the court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to witnesses called by the prosecution; and
  - f. shall be permitted to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the charge,

2. and except with his own consent the trial shall not take place in his absence unless he so conducts himself as to render the continuance of the proceedings in his presence impracticable and the court has ordered him to be removed and the trial to proceed in his absence.
3. When a person is tried for any criminal offence, the accused person or any person authorised by him in that behalf shall, if he so requires and subject to payment of such reasonable fee as may be prescribed by law, be given within a reasonable time after judgement a copy for the use of the accused person of any record of the proceedings made by or on behalf of the court.
4. No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for a criminal offence that is severer in degree or description than the maximum penalty that might have been imposed for that offence at the time when it was committed.
5. No person who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall be tried again for that offence or for any other criminal offence of which he could have been convicted at the trial for that offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.
6. No person shall be tried for a criminal offence if he shows that he has been pardoned for that offence.
7. No person who is tried for a criminal offence shall be compelled to give evidence at the trial.
8. Any court or other adjudicating authority prescribed by law for the determination of the existence or extent of any civil right or obligation shall be established by law and shall be independent and impartial; and where proceedings for such a determination are instituted by any person before such a court or other adjudicating authority, the case shall be given a fair hearing within reasonable time.
9. Except with the agreement of all parties thereto, all proceedings of every court and proceedings for the determination of the existence or extent of any civil right or obligation before any other adjudicating authority, including the announcement of the decision of the court or other authority, shall be held in public.
10. Nothing in subsection (9) shall prevent the court or other adjudicating authority from excluding from the proceedings persons other than the parties thereto and their legal representatives to such extent as the court or other authority--
  - a. may by law be empowered to do and may consider necessary or expedient in circumstances where publicity would prejudice the interests of justice or in interlocutory proceedings or in the interests of public morality, the welfare of persons under the age of eighteen years or the protection of the private lives of persons concerned in the proceedings; or
  - b. may by law be empowered or required to do in the interests of defence, public safety or public order.
11. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of--
  - a. subsection (2)(a) to the extent that the law in question imposes upon any person charged with a criminal offence the burden of proving particular facts;
  - b. subsection (2)(e) to the extent that the law in question imposes conditions that must be satisfied if witnesses called to testify on behalf of accused persons are to be paid their expenses out of public funds; or
  - c. subsection (5) to the extent that the law in question authorises a court to try a member of a disciplined force for a criminal offence notwithstanding any trial and conviction or acquittal of that member under the disciplinary law of that force, so, however, that any court so trying such a member and convicting him shall in sentencing him to any punishment take into account any punishment awarded him under that disciplinary law.
12. In the case of any person who is held in lawful detention the provisions of subsection (1), subsections (2)(d) and (e) and subsection (3) shall not apply in relation to his trial for a criminal offence under the law regulating the discipline of persons held in such detention.
13. Nothing contained in subsection (2)(d) shall be construed as entitling a person to legal representation at public expense.

- Protection from ex post facto laws
- Principle of no punishment without law

- Right to appeal judicial decisions
- Prohibition of double jeopardy

- Protection from self-incrimination

- Judicial independence

- Right to public trial

- Privileges for juveniles in criminal process

14. In this section "criminal offence" means a criminal offence under the law of Lesotho.

- Freedom of religion

### 13. Freedom of conscience

- Freedom of opinion/thought/conscience

1. Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of conscience, including freedom of thought and of religion, freedom to change his religion or belief and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.
2. Every religious community shall be entitled, at its own expense, to establish and maintain places of education and to manage any place of education which it wholly maintains; and no such community shall be prevented from providing religious instruction for persons of that community in the course of any education provided at any places of education which it wholly maintains or in the course of any education which it otherwise provides.
3. Except with his own consent (or, if he is a minor, the consent of his guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion other than his own.
4. No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.
5. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. in the interests of defence, public safety, public order, public morality or public health; or
  - b. for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion.
6. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (5) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by this section to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (5)(a) or for the purpose specified in subsection (5)(b).
7. Reference in this section to a religion shall be construed as including references to a religious denomination, and cognate expressions shall be construed accordingly.

- Freedom of expression

### 14. Freedom of expression

- Freedom of opinion/thought/conscience

1. Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of, freedom of expression, including freedom to hold opinions without interference, freedom to receive ideas and information without interference, freedom to communicate ideas and information without interference (whether the communication be to the public generally or to any person or class of persons) and freedom from interference with his correspondence.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. in the interests of defence, public safety, public order, public morality or public health; or
  - b. for the purpose of protecting the reputations, rights and freedoms of other persons or the private lives of persons concerned in legal proceedings, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts, or regulating the technical administration or the technical operation of telephony, telegraphy, posts, wireless broadcasting or television; or
  - c. for the purpose of imposing restrictions upon public officers.
3. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which

- Right to protect one's reputation
- Telecommunications
- Radio
- Television

3. he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the freedom guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b) or (c).
4. Any person who feels aggrieved by statements or ideas disseminated to the public in general by a medium of communication has the right to reply or to require a correction to be made using the same medium, under such conditions as the law may establish.

- Freedom of assembly

## 15. Freedom of peaceful assembly

1. Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of freedom of peaceful assembly, without arms, that is to say, freedom to assemble with other persons.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--
  - a. in the interests of defence, public safety, public order, public morality or public health;
  - b. for the purpose of protecting the rights and freedoms of other persons; or
  - c. for the purpose of imposing restrictions upon public officers.
3. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b) or (c).

- Freedom of association
- Right to join trade unions

## 16. Freedom of association

1. Every person shall be entitled to, and (except with his own consent) shall not be hindered in his enjoyment of freedom to associate freely with other persons for ideological, religious, political, economic, labour, social, cultural, recreational and similar purposes.
2. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of any law to the extent that the law in question makes provision--
  - a. in the interests of defence, public safety, public order, public morality or public health;
  - b. for the purpose of protecting the rights and freedoms of other persons; or
  - c. for the purpose of imposing restrictions upon public officers.
3. A person shall not be permitted to rely in any judicial proceedings upon such a provision of law as is referred to in subsection (2) except to the extent to which he satisfies the court that that provision or, as the case may be, the thing done under the authority thereof does not abridge the rights and freedoms guaranteed by subsection (1) to a greater extent than is necessary in a practical sense in a democratic society in the interests of any of the matters specified in subsection (2)(a) or for any of the purposes specified in subsection (2)(b) or (c).

- Protection from expropriation

## 17. Freedom from arbitrary seizure of property

1. No property, movable or immovable, shall be taken possession of compulsorily, and no interest in or right over any such property shall be compulsorily acquired, except where the following conditions are satisfied, that is to say--
  - a. the taking of possession or acquisition is necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of any property in such manner as to promote the public benefit; and
  - b. the necessity therefor is such as to afford reasonable justification for the causing of any hardship that may result to any person having an interest in or right over the property; and

1. c. provision is made by a law applicable to that taking of possession or acquisition for the prompt payment of full compensation.
2. Every person having an interest in or right over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired shall have a right of direct access to the High Court for--
  - a. the determination of his interest or right, the legality of the taking of possession or acquisition of the property, interest or right and the amount of any compensation to which he is entitled; and
  - b. the purpose of obtaining prompt payment of that compensation:

Provided that if Parliament so provides in relation to any matter referred to in paragraph (a) the right of access shall be by way of appeal (exercisable as of right at the instance of the person having the interest in or right over the property) from a tribunal or authority, other than the High Court, having jurisdiction under any law to determine that matter.

3. The Chief Justice may make rules with respect to the practice and procedure of the High Court or any other tribunal or authority in relation to the jurisdiction conferred on the High Court by subsection (2) or exercisable by the other tribunal or authority for the purposes of that subsection (including rules with respect to the time within which applications or appeals to the High Court or applications to the other tribunal or authority may be brought).
4. Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of subsection (1) or (2)--
  - a. to the extent that the law in question makes provision that is necessary in a practical sense in a democratic society for the taking of possession or acquisition of any property, interest or right--
    - i. in satisfaction of any tax, duty, rate, or other impost;
    - ii. by way of penalty for breach of the law, whether under civil process or after conviction of a criminal offence under the law of Lesotho;
    - iii. as an incident of a valid contract or of the terms and conditions of service of a public officer;
    - iv. in the execution of judgments or orders of a court in proceedings for the determination of civil rights or obligations;
    - v. in circumstances where it is reasonably necessary to do so because the property is in a dangerous state or injurious to the health of human beings, animals or plants;
    - vi. in consequence of any law with respect to prescription or limitation of actions;
    - vii. for so long only as may be necessary for the purposes of any examination, investigation, trial or inquiry or, in the case of land, for the purpose of carrying out thereon of work of soil conservation or the conservation of other natural resources or work relating to agricultural development or improvement (being work relating to such development or improvement that the occupier of the land has been required, and has without reasonable excuse refused or failed, to carry out); or
    - viii. in satisfaction of the right conferred under section 14(4); or
  - b. to the extent that the law in question makes provision for the taking of possession or acquisition of the following property (including an interest in or right over property), that is to say--
    - i. enemy property;
    - ii. property of a deceased person, a person of unsound mind or a person who has not attained the age of twenty-one years, for the purpose of its administration for the benefit of the persons entitled to the beneficial interest therein;
    - iii. property of a person adjudged insolvent or a body corporate in liquidation, for the purpose of its administration for the benefit of the creditors of the insolvent or body corporate and, subject thereto, for the benefit of other persons entitled to the beneficial interest in the property; or
    - iv. property subject to a trust, for the purpose of vesting the property in persons appointed as trustees under the instrument creating the trust or by a court or, by order of a court, for the purpose of giving effect to the trust.

• Protection of environment

5. Nothing contained in or done under the authority of any Act of Parliament shall be held to be inconsistent with or in contravention of this section to the extent that the Act in question makes provision for the compulsory taking possession of any property or the compulsory acquisition of any interest in or right over property where that property, interest or right is vested in a body corporate established by law for public purposes, in which no moneys have been invested other than moneys provided by Parliament.

- Equality regardless of financial status
- Equality regardless of language
- Equality regardless of origin
- General guarantee of equality
- Equality regardless of political party
- Equality regardless of parentage
- Equality regardless of skin color
- Equality regardless of religion
- Equality regardless of gender
- Equality regardless of race
- Equality regardless of creed or belief

## 18. Freedom from discrimination

1. Subject to the provisions of subsections (4) and (5) no law shall make any provision that is discriminatory either of itself or in its effect.
2. Subject to the provisions of subsection (6), no person shall be treated in a discriminatory manner by any person acting by virtue of any written law or in the performance of the functions of any public office or any public authority.
3. In this section, the expression "discriminatory" means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description.
4. Subsection (1) shall not apply to any law to the extent that that law makes provision--
  - a. with respect to persons who are not citizens of Lesotho; or
  - b. for the application, in the case of persons of any such description as is mentioned in subsection (3) (or of persons connected with such persons), of the law with respect to adoption, marriage, divorce, burial, devolution of property on death or other like matters which is the personal law of persons of that description; or
  - c. for the application of the customary law of Lesotho with respect to any matter in the case of persons who, under that law, are subject to that law; or
  - d. for the appropriation of public revenues or other public funds; or
  - e. whereby persons of any such description as is mentioned in subsection (3) may be made subject to any disability or restriction or may be accorded any privilege or advantage which, having regard to its nature and to special circumstances pertaining to those persons or to persons of any other such description, is reasonably justifiable in a democratic society.

Nothing in this subsection shall prevent the making of laws in pursuance of the principle of State Policy of promoting a society based on equality and justice for all the citizens of Lesotho and thereby removing any discriminatory law.

5. Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards of qualifications (not being standards of qualifications specifically relating to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status) to be required of any person who is appointed to any office in the public service, any office in a disciplined force, any office in the service of a local government authority or any office in a body corporate established by law for public purposes.
6. Subsection (2) shall not apply to anything which is expressly or by necessary implication authorised to be done by any such provision of law as is referred to in subsection (4) or (5).
7. No person shall be treated in a discriminatory manner in respect of access to shops, hotels, lodging houses, public restaurants, eating houses, beer halls or places of public entertainment or in respect of access to places of public resort maintained wholly or partly out of public funds or dedicated to the use of the general public.
8. The provisions of this section shall be without prejudice to the generality of section 19 of this Constitution.

- General guarantee of equality

## 19. Right to equality before the law and the equal protection of the law

Every person shall be entitled to equality before the law and to the equal protection of the law.

## 20. Right to participate in government

- Claim of universal suffrage
- Secret ballot

- Civil service recruitment

1. Every citizen of Lesotho shall enjoy the right--
  - a. to take part in the conduct of public affairs, directly or through freely chosen representatives;
  - b. to vote or to stand for election at periodic elections under this Constitution under a system of universal and equal suffrage and secret ballot;
  - c. to have access, on general terms of equality, to the public service.
2. The rights referred to in subsection (1) shall be subject to the other provisions of this Constitution.

## 20A. Affirmative action in favour of marginalised groups

- Equality regardless of gender
- Equality regardless of age
- Equality for persons with disabilities

1. Notwithstanding anything in this Constitution, the State shall take affirmative action in favour of groups marginalised on the basis of gender, age, disability or any other reason created by history or law, for the purpose of redressing imbalances which exist against them.
2. Parliament shall make laws for the purpose of giving effect to this section.

- Emergency provisions

## 21. Derogation from fundamental human rights and freedoms

1. Nothing contained in or done under the authority of an Act of Parliament shall be held to be inconsistent with or in contravention of section 6, section 18 or section 19 of this Constitution to the extent that the Act authorises the taking during any period when Lesotho is at war or when a declaration of emergency under section 23 of this Constitution is in force of measures that are necessary in a practical sense in a democratic society for dealing with the situation that exists in Lesotho during that period.
2. When a person is detained by virtue of any such law as is referred to in subsection (1) the following provisions shall apply, that is to say--
  - a. he shall, as soon as reasonably practicable after the commencement of his detention, be furnished with a statement in writing in a language that he understands specifying in detail the grounds upon which he is detained;
  - b. not more than fourteen days after the commencement of his detention, a notification shall be published in the Gazette stating that he has been detained and giving particulars of the provision of law under which his detention is authorised;
  - c. not more than one month after the commencement of his detention and thereafter during his detention at intervals of not more than six months, his case shall be investigated by an independent and impartial tribunal established by law and presided over by a person appointed by the Chief Justice;
  - d. he shall be afforded reasonable facilities to consult a legal representative of his own choice who shall be permitted to make representations to the tribunal appointed for the investigation of the case of the detained person; and
  - e. at the hearing of his case by the tribunal appointed for the investigation of his case he shall be permitted to appear in person or by a legal representative of his own choice.
3. On any investigation by a tribunal in pursuance of this section of the case of a detained person, the tribunal may make recommendations concerning the necessity or expediency of continuing his detention to the authority by which it

3. was ordered but, unless it is otherwise provided by law, that authority shall not be obliged to act in accordance with any such recommendations.
4. Nothing contained in subsection (2)(d) or (e) shall be construed as entitling a person to legal representation at public expense.

- Protection from false imprisonment
- Ultra-vires administrative actions

## 22. Enforcement of protective provisions

1. If any person alleges that any of the provisions of sections 4 to 21 (inclusive) of this Constitution has been, is being or is likely to be contravened in relation to him (or, in the case of a person who is detained, if any other person alleges such a contravention in relation to the detained person), then, without prejudice to any other action with respect to the same matter which is lawfully available, that person (or that other person) may apply to the High Court for redress.
2. The High Court shall have original jurisdiction--
  - a. to hear and determine any application made by any person in pursuance of subsection (1); and
  - b. to determine any question arising in the case of any person which is referred to it in pursuance of subsection (3),

and may make such orders, issue such process and give such directions as it may consider appropriate for the purpose of enforcing or securing the enforcement of any of the provisions of sections 4 to 21 (inclusive) of this Constitution:

Provided that the High Court may decline to exercise its powers under this subsection if it is satisfied that adequate means of redress for the contravention alleged are or have been available to the person concerned under any other law.

3. If in any proceedings in any subordinate court any question arises as to the contravention of any of the provisions of sections 4 to 21 (inclusive) of this Constitution, the person presiding in that court may, and shall if any party to the proceedings so requests, refer the question to the High Court unless, in his opinion, the raising of the question is merely frivolous or vexatious.
4. Where any question is referred to the High Court in pursuance of subsection (3), the High Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under section 129 of this Constitution to the Court of Appeal, in accordance with the decision of the Court of Appeal.
5. Parliament may confer upon the High Court such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purposes of enabling that court more effectively to exercise the jurisdiction conferred upon it by this section.
6. The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under this section (including rules with respect to the time within which applications may be brought and references shall be made to the High Court).

### 22A. Public interest

1. The following persons may approach a competent court where any or all of them reasonably believe or believes that a right in this Constitution has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights:
  - a. a person acting in his or her own interests;
  - b. a person acting on behalf of another person who cannot act on his or her own;
  - c. a person acting as a member of, or in the interest of, a group or class of persons;
  - d. a person acting in the public interest; and
  - e. an association acting in the interests of its members or any other members of society.
2. An Act of Parliament shall make provision for the exercise of the right under this section.

- Emergency provisions

## 23. Declaration of emergency

1. In time of war or other public emergency which threatens the life of the nation, the Prime Minister may, acting in accordance with the advice of the Council of State, by proclamation which shall be published in the Gazette, declare that a state of emergency exists for the purposes of this Chapter.
2. Every declaration of emergency shall lapse at the expiration of fourteen days, commencing with the day on which it was made, unless it has in the meantime been approved by a resolution of each House of Parliament.
3. A declaration of emergency may at any time be revoked by the Prime Minister acting in accordance with the advice of the Council of State, by proclamation which shall be published in the Gazette.
4. A declaration of emergency that has been approved by a resolution of each House of Parliament in pursuance of subsection (2) shall, subject to the provisions of subsection (3), remain in force so long as those resolutions remain in force and no longer.
5. A resolution of either House of Parliament passed for the purposes of this section shall remain in force for six months or such shorter period as may be specified therein:

Provided that any such resolution may be extended from time to time by a further such resolution, each extension not exceeding six months from the date of the resolution effecting the extension.

6. Where the resolutions of the two Houses of Parliament made under subsection (2) or (5) differ, the resolution of the National Assembly shall prevail.
7. Any provision of this section that a declaration of emergency shall lapse or cease to be in force at any particular time is without prejudice to the making of a further such declaration whether before or after that time.
8. The King may summon the two Houses of Parliament to meet for the purposes of this section notwithstanding that Parliament then stands dissolved, and the persons who were members of either House immediately before the dissolution shall be deemed, for those purposes, still to be members of that House, but, subject to the provisions of sections 61(4) and 63(4) of this Constitution, neither House shall, when summoned by virtue of this subsection, transact any business other than debating and voting upon resolutions for the purposes of this section.

## 24. Interpretation and savings

1. In this Chapter, unless the context otherwise requires--
  - "contravention" in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly;
  - "court" means a court of law having jurisdiction in Lesotho other than a court established by a disciplinary law, and, in sections 5 and 9 of this Constitution, includes a court established by a disciplinary law;
  - "disciplinary law" means a law regulating the discipline of any National Security Agencies;
  - "National Security Agencies" means--
    - a. a military or air force; or
    - b. the Police Force; or
    - c. the National Security Service; or
    - d. the prison service;
  - "legal representative" means a person entitled to practise as a legal practitioner in Lesotho; and

1.
  - "member" in relation to a National Security Agencies, includes any person who, under the law regulating the discipline of that force, is subject to that discipline.
2. Nothing contained in any of the provisions of section 7, section 17 or section 18 of this Constitution shall be construed as affecting any law for the time being in force relating to the allocation of land or the grant of any interest or right in or over land or as entitling any person to any greater such interest or right than he would otherwise have.
3. In relation to any person who is a member of a National Security Agency raised under a law of Lesotho, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter other than sections 5, 8 and 9.
4. In relation to any person who is a member of a National Security Agency raised otherwise than as aforesaid and lawfully present in Lesotho, nothing contained in or done under the authority of the disciplinary law of that force shall be held to be inconsistent with or in contravention of any of the provisions of this Chapter.

## CHAPTER III. PRINCIPLES OF STATE POLICY

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### 25. Application of the principles of State policy

The principles contained in this Chapter shall form part of the public policy of Lesotho. These principles shall not be enforceable by any court but, subject to the limits of the economic capacity and development of Lesotho, shall guide the authorities and agencies of Lesotho, and other public authorities, in the performance of their functions with a view to achieving progressively, by legislation or otherwise, the full realisation of these principles.

### 26. Equality and justice

1. Lesotho shall adopt policies aimed at promoting a society based on equality and justice for all its citizens regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. In particular, the State shall take appropriate measures in order to promote equality of opportunity for the disadvantaged groups in the society to enable them to participate fully in all spheres of public life.

### 27. Protection of health

1. Lesotho shall adopt policies aimed at ensuring the highest attainable standard of physical and mental health for its citizens, including policies designed to--
  - a. provide for the reduction of stillbirth rate and of infant mortality and for the healthy development of the child;
  - b. improve environmental and industrial hygiene;
  - c. provide for the prevention, treatment and control of epidemic, endemic, occupational and other diseases;
  - d. create conditions which would assure to all, medical service and medical attention in the event of sickness; and
  - e. improve public health.

### 28. Provision for education

Lesotho shall endeavour to make education available to all and shall adopt policies aimed at securing that--

- Right to development of personality
  - Free education
  - Compulsory education  
Free education
  - Access to higher education
  - Free education
- a. education is directed to the full development of the human personality and sense of dignity and strengthening the respect for human rights and fundamental freedoms;
  - b. primary education is compulsory and available to all;
  - c. secondary education, including technical and vocational education, is made generally available and accessible to all by every appropriate means, and in particular, by the progressive introduction of free education;
  - d. higher education is made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular, by the progressive introduction of free education; and
  - e. fundamental education is encouraged or intensified as far as possible for those persons who have not received or completed their primary education.

## 29. Opportunity to work

- Right to work
  - Right to choose occupation
  - Right to culture
1. Lesotho shall endeavour to ensure that every person has the opportunity to gain his living by work which he freely chooses or accepts.
  2. Lesotho shall adopt policies aimed at--
    - a. achieving and maintaining as high and stable a level of employment as possible;
    - b. providing technical and vocational guidance and training programmes; and
    - c. achieving steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

## 30. Just and favourable conditions of work

Lesotho shall adopt policies aimed at securing just and favourable conditions of work and in particular policies directed to achieving--

- Right to just remuneration
  - Right to reasonable standard of living
  - Right to safe work environment
  - Right to rest and leisure
  - Right to join trade unions
  - Protection of victim's rights
- a. remuneration which provides all workers, as a minimum with--
    - i. fair wages and equal remuneration for work of equal value without distinction of any kind, and in particular, women being guaranteed conditions of work, including pension or retirement benefits, not inferior to those enjoyed by men, with equal pay for equal work; and
    - ii. a decent living for themselves and their families;
  - b. safe and healthy working conditions;
  - c. equal opportunity for men and women to be promoted in their employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
  - d. the protection of women who are in employment during a reasonable period before and after childbirth; and
  - e. rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

## 31. Protection of workers' rights and interests

Lesotho shall take appropriate steps in order to encourage the formation of independent trade unions to protect workers' rights and interests and to promote sound labour relations and fair employment practices.

## 31A. Protection of victims of crime

Lesotho shall adopt policies designed to make provision for victims of crime support services including mechanisms to ensure compensation for victims of crime, and assist vulnerable groups of victims.

- Rights of children
- State support for children

## 32. Protection of children and young persons

Lesotho shall adopt policies designed to provide that--

- protection and assistance is given to all children and young persons without any discrimination for reasons of parentage or other conditions;
- children and young persons are protected from economic and social exploitation;
- the employment of children and young persons in work harmful to their morals or health or dangerous to life or likely to hamper their normal development is punishable by law; and
- there are age limits below which the paid employment of children and young persons is prohibited and punishable by law.

- Limits on employment of children
- Limits on employment of children
- Limits on employment of children
- State support for the disabled

## 33. Rehabilitation, training and social resettlement of disabled persons

With a view to ensuring the rehabilitation, training and social resettlement of disabled persons, Lesotho shall adopt policies designed to--

- provide for training facilities, including specialised institutions, public or private; and
- place disabled persons in employment and encourage employers to admit disabled persons to employment.

## 34. Economic opportunities

Lesotho shall adopt policies which encourage its citizens to acquire property including land, houses, tools and equipment; and shall take such other economic measures as the State shall consider affordable.

- Reference to science

## 35. Participation in cultural activities

- Lesotho shall endeavour to ensure that every citizen has an opportunity to freely participate in the cultural life of the community and to share in the benefits of scientific advancement and its application.
- Lesotho shall adopt policies designed to protect the interests of any citizen in any scientific, literary or artistic production of which he is the author.

- Right to culture
- Right to enjoy the benefits of science
- Provisions for intellectual property
- Reference to art
- Protection of environment

## 36. Protection of the Environment

Lesotho shall adopt policies designed to protect and enhance the natural and cultural environment of Lesotho for the benefit of both present and future generations and shall endeavour to assure to all citizens a sound and safe environment adequate for their health and well-being.

## CHAPTER IV. CITIZENSHIP

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- Requirements for birthright citizenship

### 37. Persons who are citizens on the coming into operation of the Constitution

Every person who immediately before the coming into operation of this Constitution is a citizen of Lesotho under the Lesotho Citizenship Order 1971 shall, on the coming into operation of this Constitution and subject to any provision made in or under this Chapter, continue to be a citizen of Lesotho.

- Requirements for birthright citizenship

### 38. Persons born in Lesotho after the coming into operation of the Constitution

1. Subject to the provisions of subsections (2) and (3), every person born in Lesotho after the coming into operation of this Constitution shall become a citizen of Lesotho.
2. Save as provided in subsection (3), a person shall not become a citizen of Lesotho by virtue of this section if at the time of his birth neither of his parents is a citizen of Lesotho, and--
  - a. one or both of his parents possesses such immunity from suit and legal process as is accorded to the envoy of a foreign sovereign power accredited to Lesotho; or
  - b. one or both of his parents is an enemy alien and the birth occurs in a place then under occupation by the enemy.
3. A person born in Lesotho on or after the coming into operation of this Constitution who is disqualified to become a citizen of Lesotho by virtue of subsection (2) of this section shall become a citizen of Lesotho if he would otherwise become stateless.

- Requirements for birthright citizenship

### 39. Persons born outside Lesotho after the coming into operation of the Constitution

A person born outside Lesotho after the coming into operation of this Constitution shall become a citizen of Lesotho at the date of his birth, if at that date either of his parents is a citizen of Lesotho otherwise than by descent.

- Requirements for naturalization

### 40. Marriage to Lesotho citizen

1. A person who marries a citizen of Lesotho shall, upon making application and taking oath of allegiance be registered as a Lesotho citizen after five years of--
  - a. cohabitation in Lesotho; and
  - b. continuous and lawful stay in Lesotho with a citizen of Lesotho.
2. A person who marries a citizen of Lesotho who, but for his death would have continued to be a citizen of Lesotho under section 37 of the constitution is entitled to be registered as a citizen of Lesotho after five years of continuous and lawful stay in Lesotho.

### 41. Dual citizenship

1. A citizen of Lesotho may hold citizenship of any other country in addition to his citizenship of Lesotho.
2. Notwithstanding the provisions of sections 18, 28 and 29 of the Constitution a person who is a citizen of any country who acquires a citizenship of Lesotho by naturalisation or registration--

2.
  - a. is only eligible for social benefits after ten years of being naturalised or registered as a citizen of Lesotho; and
  - b. shall not hold a position which will be specified by an Act of Parliament governing citizenship matters.

- Right to renounce citizenship

## 41A. Restoration of Lesotho citizenship

1. A citizen of Lesotho who marries a citizen of another country which requires him to renounce his Lesotho citizenship, shall, upon dissolution of marriage, have his citizenship restored if he wishes to become a citizen of Lesotho.
2. A person who was born a citizen of Lesotho and renounced his citizenship through acquisition of another citizenship, his citizenship shall be restored immediately on the coming into operation of this amendment to the Constitution and his rights and privileges, except those that contradict section 41(3) shall continue to prevail as if he never lost Lesotho citizenship.
3. A citizen of Lesotho who acquires citizenship in another country shall not hold a position which will be specified by the provisions of the Constitution and any Act of Parliament governing citizenship matters in Lesotho.
4. For purposes of this section "social benefits" means educational sponsorships, social grants, old age pension or any other benefit which the Minister responsible for citizen matters may determine.

## 42. Powers of Parliament

- Requirements for naturalization
- Conditions for revoking citizenship
- Right to renounce citizenship

1. Parliament may make provision for the acquisition of citizenship of Lesotho by persons who are not eligible or who are no longer eligible to become citizens of Lesotho under the provisions of this Chapter.
2. Parliament may make provision for depriving of his citizenship of Lesotho any person other than a person who became or becomes--
  - a. a citizen of Lesotho by virtue of having been born in Lesotho; or
  - b. a citizen of Lesotho by descent,

unless he would thereby become stateless.
3. Parliament may make provision for the renunciation by any person of his citizenship of Lesotho.

## 43. Interpretation

1. In this Chapter--
  - "alien" means a person who is not a citizen of Lesotho;
  - "prescribed" means prescribed by or under any Act of Parliament.
2. In this Chapter, references to a citizen by descent are references to a person who is a citizen of Lesotho by virtue of section 39 of this Constitution or of section 23(2) or 26 of the Constitution of Lesotho of 1966 or of section 6 of the Lesotho Citizenship Order 1971.
3. For the purposes of this Chapter, a person born aboard a registered ship or aircraft, or aboard an unregistered ship or aircraft of the Government of any country, shall be deemed to have been born in the place in which the ship or aircraft was registered or, as the case may be, in that country.
4. Any reference in this Chapter to the national status of the parent of a person at the time of that person's birth shall, in relation to a person born after the death of either parent be construed as a reference to the national status of that parent at that parent's death, and where that death occurred before the coming into operation of this Constitution, and the birth occurred after the coming into operation of this Constitution the national status that the parent would have had if he or she had died on the coming into operation of this Constitution shall be deemed to be his or her national status at the time of his or her death.

# CHAPTER V. THE KING

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## 44. The Office of King

- Name/structure of executive(s)
- Head of state term length
- Oaths to abide by constitution

1. There shall be a King of Lesotho who shall be a constitutional monarch and Head of State.
2. The King shall do all things that belong to his office in accordance with the provisions of this Constitution and of all other laws for the time being in force and shall faithfully comply with the terms of the oath of the office of King set out in Schedule I to this Constitution.

- Head of state replacement

## 45. Succession to the throne of Lesotho

- Head of state selection

1. The College of Chiefs may at any time designate, in accordance with the customary law of Lesotho, the person (or the persons, in order of prior right) who are entitled to succeed to the office of King upon the death of the holder of, or the occurrence of any vacancy in, that office and if on such death or vacancy, there is a person who has previously been designated in pursuance of this section and who is capable under the customary law of Lesotho of succeeding to that office, that person (or, if there is more than one such person, that one of them who has been designated as having the first right to succeed to the office) shall become King.
2. If, on the death of the holder of, or the occurrence of any vacancy in, the office of King, there is no person who becomes King under subsection (1), the College of Chiefs shall, with all practical speed and in accordance with the customary law of Lesotho, proceed to designate a person to succeed to the office of King and the person so designated shall thereupon become King.
3. Whenever the holder of the office of King or a Regent--
  - a. has occasion to be absent from Lesotho for a period which the College of Chiefs has reason to believe will be of short duration; or
  - b. is suffering from an illness which the College of Chiefs has reason to believe will be of short duration,

the College of Chiefs may for the time being designate a person, in accordance with the customary law of Lesotho, to exercise the functions of the office of King, and any person for the time being so designated may exercise all the functions of the office of King during the absence or illness of the holder of that office or the Regent.

4. Every designation made for the purposes of this section shall be published in the Gazette.
5. Where any person has been designated to succeed to the office of King in pursuance of subsection (1) or (2), any other person who claims that, under the customary law of Lesotho, he should have been so designated in place of that person may, by application made to the High Court within a period of six months commencing with the day on which the designation was published in the Gazette, apply to have the designation varied by the substitution of his own name for that of the first mentioned person, but, save as provided in this Chapter, the designation of any person for the purposes of this section shall not otherwise be called in question in any court on the ground that, under the customary law of Lesotho, the person designated was not entitled to be so designated.
6. Pending the decision of the High Court or, as the case may be, of the Court of Appeal, a designation which is the subject of the appeal shall remain of full force and effect.
7. In this section references to a vacancy in the office of King are references to a vacancy caused by the abdication of the King or by a resolution or resolutions of Parliament under section 53 of this Constitution that the holder of the office of King should cease to hold that office.

## 46. The Regent

1. The College of Chiefs may at any time designate, in accordance with the customary law of Lesotho, the person (or the persons, in order of prior right) who shall be Regent, that is to say, who shall exercise the functions of the office of King in any of the following circumstances--
  - a. when the holder of that office has not attained the age of twenty-one years; or
  - b. when the holder of that office (and any person who has been designated as having a prior right to be Regent) is unable by reason of absence from Lesotho or by reason of infirmity of body or mind to exercise the functions of that office; or
  - c. when, in the circumstances specified in section 45(2) of this Constitution, the College of Chiefs has not yet made a designation in pursuance of that subsection,

- Age restrictions on head of state

and if, in any of those circumstances, there is a person who has previously been designated in pursuance of this subsection and who is capable under the customary law of Lesotho of becoming Regent, that person (or, if there is more than one such person, that one of them who has been designated as having the first right to be Regent) shall become Regent.

2. If, in any of the circumstances specified in subsection (1)(a), (b) or (c), there is no person who becomes Regent under that subsection, the College of Chiefs shall, with all practical speed and in accordance with the customary law of Lesotho, proceed to designate a person to be Regent and the person so designated shall thereupon become Regent.
3. If the College of Chiefs fails within a reasonable time to discharge the duty imposed on it by subsection (2), the High Court may, upon the application of any person, itself designate a person to be Regent in accordance with the customary law of Lesotho and the person so designated shall thereupon become Regent.
4. A Regent shall not exercise the functions of the office of King at any time when a person is for the time being designated to exercise such functions in pursuance of section 45(3) of this Constitution.
5. Every designation made for the purpose of this section shall be published in the Gazette.

- Right to appeal judicial decisions

## 47. Proceedings in High Court and Court of Appeal

1. An appeal shall lie to the Court of Appeal from any decision of the High Court made under section 45(5) or section 46(3) of this Constitution.
2. The High Court and the Court of Appeal shall consider with all practical speed every application or appeal, as the case may be, made to it under section 45(5), or section 46(3) of this Constitution or subsection (1).
3. The Chief Justice may make rules with respect to the practice and procedure of the High Court in relation to the jurisdiction and powers conferred on it by or under section 45(5) and section 46(3) of this Constitution (including rules with respect to the time within which application may be made to the Court under those sections).

## 48. Civil List of the King and remuneration of Regent

1. The King shall have such Civil List as may be provided by Parliament and that Civil List shall be a charge upon the Consolidated Fund and shall not be reduced during the King's continuance in office.
2. A person exercising the functions of the office of King as Regent shall, in respect of any period during which he exercises those functions, be entitled to remuneration as may be prescribed by Parliament, and the remuneration prescribed under this subsection in relation to any person in respect of any such period shall be a charge on the Consolidated Fund and shall not be reduced after the commencement of that period.

## 49. Immunity of the King and Regent from taxation

1. The King shall be entitled to immunity from taxation in respect of his Civil List, all income accruing to him in his private capacity and all property owned by him in his private capacity.
2. A person who is exercising or who has exercised the functions of the office of King as Regent shall be entitled to immunity from taxation in respect of any remuneration to which he is entitled under section 48(2) of this Constitution, all income accruing to him in his private capacity during any period during which he is exercising those functions and, in so far as the taxation relates to that period, all property owned by him in his private capacity.
3. The King shall be entitled to immunity from the compulsory taking possession of any property held by him in his private capacity and the compulsory acquisition of any interest in or right over any property, being an interest or right owned by him in his private capacity.

## 50. Protection of the King and of certain persons in respect of legal proceedings

• Head of state immunity

1. Whilst any person holds the office of King, he shall be entitled to immunity from suit and legal process in any civil cause in respect of all things done or omitted to be done by him in his private capacity and to immunity from criminal proceedings in respect of all things done or omitted to be done by him either in his official capacity or in his private capacity.
2. Whilst any person exercises the functions of the office of King as Regent or by virtue of a designation under section 45(3) of this Constitution, no criminal proceedings shall be instituted or continued against him in respect of anything done or omitted to be done by him either in his official capacity or in his private capacity, and no civil proceedings shall be instituted or continued in respect of which relief is claimed against him in respect of anything done or omitted to be done by him in his private capacity.
3. Where provision is made by law limiting the time within which proceedings of any description may be brought against any person, the period during which that person has held the office of King or exercised the functions of the office of King shall not be taken into account in calculating the period of time prescribed by that law which determines whether any such proceedings as are mentioned in subsection (1) or (2), as the case may be, of this section may be brought against that person.
4. Where a debt or obligation is owing to any person as a result of anything done or omitted to be done by the King, Regent or by a person designated to exercise the functions of the office of King during the absence or illness of the holder of that office or of the Regent, in his private capacity, the person to whom the debt or obligation is owing may lodge an application in writing to the Minister responsible for finance who, in his absolute discretion, may, after consultation with the Attorney-General, defray the debt or make provision to satisfy the obligation out of the Civil List.
5. Any civil right of action that the King, or any person exercising the functions of the office of the King as Regent or by virtue of a designation under section 45(3) of this Constitution, would have in his private capacity, shall vest in the Attorney-General who may institute appropriate proceedings, and any proceedings therefrom shall be paid to the King or, as the case may be, to the person exercising the functions of the office of the King.

• Oaths to abide by constitution

## 51. Oaths

1. The King shall, as soon as is practicable after succeeding to the office of King and before entering upon the duties of his office (or, in the case of a person who when he so succeeded was below the age of twenty-one years, as soon as is practicable after attaining that age before entering upon the duties of his office), take and subscribe the oath for the due execution of his office which is set out in Schedule 1 to this Constitution.

2. A Regent shall, before entering upon the duties of his office, take and subscribe the oath of allegiance and the oath for the due execution of his office which is set out in Schedule I to this Constitution.
3. The oaths referred to in the foregoing provisions of this section shall be administered to the King or, as the case may be, to the Regent, by the Chief Justice (or, in the absence of the Chief Justice, by a judge of the Court of Appeal or some other judge of the High Court) in the presence of such of the judges of the Court of Appeal, such of the other judges of the High Court and such Ministers of the Government of Lesotho and such other authorities of the Government of Lesotho as are able to attend.

## 52. Abdication

The King may, at any time, abdicate, but such abdication shall not affect the right of any person who is entitled to succeed to the office of King.

- Head of state removal

## 53. Vacation of the office of King

1. If, in the opinion of the Prime Minister--
  - a. the King declines to take and subscribe the oath set out in Schedule I to this Constitution;
  - b. the King having taken and subscribed the said oath, thereafter fails or declines to abide by any of its terms; or
  - c. the King is unable to perform the functions of his office due to infirmity of body or mind,

the Prime Minister may report the facts thereof to the National Assembly and the Senate.

2. On receiving a report under subsection (1), the National Assembly and the Senate shall each determine and declare by resolution whether the circumstances are such that the person holding the office of King should cease to hold such office and, subject to the provisions of subsection (3), where it is so declared that the person holding the office of King should cease to hold that office, that person shall vacate the office of King with effect from such date as may be specified in the resolution or if no date is so specified, on the date on which the resolution is passed.
3. Where the resolutions of the two Houses of Parliament made under subsection (2) differ, the resolution of the National Assembly shall prevail.
4. The Prime Minister shall cause to be published in the Gazette every resolution made by the Houses of Parliament under this section and, if as a consequence of such a resolution the person holding the office of King has vacated his office, shall give notice of that fact and of the date (in this section referred to as the "effective date") of his so vacating his office.
5. Whenever the person holding the office of King has vacated office in accordance with this section, any act performed or any thing done on or after the effective date by the person so vacating the office or by the Regent or by a person designated under this Constitution to perform the functions of the office of King which purports to have been performed or done by such person in the exercise of the office of King shall be null and void.

# CHAPTER VI. PARLIAMENT

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## Part 1. Composition of Parliament

### 54. Establishment of Parliament

1. There shall be a Parliament which shall be autonomous and independent.
2. The Parliament shall consist of the King, the Senate and the National Assembly.

- Structure of legislative chamber(s)

3. The budgetary allocation for Parliament shall be done through a percentage or a model to be determined by an Act of Parliament.

- Size of second chamber
- Second chamber selection

## 55. Composition of Senate

The Senate shall consist of the twenty-two Principal Chiefs and eleven other Senators nominated in that behalf by the King acting in accordance with the advice of the Council of State:

Provided that--

- a. a Principal Chief may, by notice in writing to the President of the Senate, designate any other person to be a Senator in his place either generally or for any sitting or sittings of the Senate specified in the notice and may, by notice in like manner, vary or revoke any such designation; and
- b. the Council of State shall not meet for the purpose of tendering advice to the King for the nomination of Senators following a general election of members of the National Assembly until after the first sitting of the National Assembly following that general election.

- Size of first chamber

## 56. Composition of National Assembly

The National Assembly shall consist of one hundred and twenty members elected in accordance with the provisions of this Constitution.

## 57. Elections to National Assembly

- First chamber selection

1. The members of the National Assembly shall be elected in terms of a mixed member proportional electoral system that -
  - a. is prescribed by legislation;
  - b. is based on a national common voters roll; and
  - c. provides for the constitution of the National Assembly as follows -
    - i. eighty members to be elected in respect of each of the constituencies contemplated by section 67(1); and
    - ii. forty members to be elected to forty seats in accordance with the principle of proportional representation applied in respect of the National Assembly as a whole.
2. Subject to the provisions of subsections (3) and (4), every person who--
  - a. is a citizen of Lesotho; and
  - b. has attained the age of eighteen years; and
  - c. possesses such qualifications as to residence as may be prescribed by Parliament,

- Eligibility for cabinet
- Eligibility for first chamber
- Restrictions on voting
- Age restrictions on first chamber
- Eligibility for head of government
- Age restrictions on head of government

shall be qualified to be registered as an elector in elections to the National Assembly under a law in that behalf; and no other person may be so registered.

- Restrictions on voting

3. No person shall be qualified to be registered as an elector in elections to the National Assembly who, at the date of his application to be registered--
  - a. is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to any foreign power or state; or
  - b. is under sentence of death imposed on him by any court in Lesotho; or
  - c. is, under any law in force in Lesotho, adjudged or otherwise declared to be of unsound mind.

- Restrictions on voting

4. Parliament may provide that a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of members of the National Assembly or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to be registered as an elector in elections to the National Assembly for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.

- Restrictions on voting

5. Subject to the provisions of subsections (6) and (7), every person who is registered in any constituency as an elector in elections to the National Assembly shall be qualified to vote in such elections in that constituency in

- Restrictions on voting
  - Restrictions on voting
  - Eligibility for cabinet
  - Eligibility for second chamber
5. accordance with the provisions of any law in that behalf; and no other person may so vote.
  6. Parliament may provide that a person who holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of an election in any constituency shall not be qualified to vote in that election in that constituency.
  7. Parliament may provide that a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of members of the National Assembly or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to vote in any election to the National Assembly for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.

## 58. Qualifications for membership of Parliament

- Age restrictions on head of government
  - Eligibility for first chamber
  - Age restrictions on first chamber
  - Eligibility for cabinet
  - Eligibility for head of government
1. Subject to the provisions of section 59 of this Constitution, a person shall be qualified to be nominated as a Senator by the King acting in accordance with the advice of the Council of State or designated by a Principal Chief as a Senator in his place if, and shall not be so qualified unless, at the date of his nomination or designation, he--
    - a. is a citizen of Lesotho; and
    - b. is able to speak and, unless incapacitated by blindness or other physical cause, to read and write either the Sesotho or English languages well enough to take an active part in the proceedings of the Senate.
  2. Subject to the provisions of section 59 of this Constitution, a person shall be qualified to be elected as a member of the National Assembly if, and shall not be so qualified unless, at the date of his nomination for election, he--
    - a. is a citizen of Lesotho; and
    - b. is registered in some constituency as an elector in elections to the National Assembly and is not disqualified from voting in such elections; and
    - c. is able to speak and, unless incapacitated by blindness or other physical cause, to read and write either the Sesotho or English language well enough to take an active part in the proceedings of the National Assembly.

## 59. Disqualifications for membership of Parliament

- Eligibility for second chamber
  - Eligibility for first chamber
1. No person shall be qualified to be nominated as a Senator by the King acting in accordance with the advice of the Council of State or designated by a Principal Chief as a Senator in his place and no person shall be qualified to be elected as a member of the National Assembly if, at the date of his nomination or designation or, as the case may be, at the date of his nomination for election, he--
    - a. is, by virtue of his own act, under any acknowledgement of allegiance, obedience or adherence to any foreign power or state; or
    - b. is under sentence of death or sentence of imprisonment for a term exceeding six months, without the option of a fine, imposed on him by a court in Lesotho or a court in any part of the Commonwealth;
    - c. is under any law in force in Lesotho, adjudged or otherwise declared to be of unsound mind; or
    - d. is an unrehabilitated insolvent, having been adjudged or otherwise declared insolvent under any law in force in Lesotho; or
    - e. subject to such exceptions and limitations as may be prescribed by Parliament, has any such interest in any such government contract as may be so prescribed.
  - 1A. For the purposes of paragraph (b) of subsection (1) in relation to imprisonment, where a person is sentenced to two or more terms of imprisonment that are required to be serve consecutively, account shall be taken only of any of those terms that exceeds six months.
  2. Parliament may provide that a person who, at the date of his nomination for election, holds or is acting in any office that is specified by Parliament and the functions of which involve responsibility for, or in connection with, the conduct of any election to the National Assembly or the compilation of any register of

- Eligibility for first chamber

2. electors for the purposes of such an election shall not be qualified to be elected as a member of the National Assembly.
3. Parliament may provide that a person who is convicted by any court of any offence that is prescribed by Parliament and that is connected with the election of members of the National Assembly or who is reported guilty of such an offence by the court trying an election petition shall not be qualified to be nominated for election as a member of the National Assembly for such period (not exceeding five years) following his conviction or, as the case may be, following the report of the court as may be so prescribed.
4. Parliament may provide that, subject to such exceptions and limitations as may be prescribed by Parliament, a person shall not be qualified to be nominated as a Senator or elected as a member of the National Assembly if--
  - a. he holds or acts in any office or appointment that is so prescribed; or
  - b. he is a member of the Defence Force; or
  - c. he is a member of the Police Force; or
  - d. he is a member of the National Security Service; or
  - e. he is a member of the Prison Service.
5. No person shall be qualified to be elected as a member of the National Assembly who, at the date of his nomination for election as such a member, is a Principal Chief or is otherwise a Senator.
6. In subsection (1)(e) "government contract" means any contract made with the Government of Lesotho or with a department of that Government or with an officer of that Government contracting as such.

- Eligibility for second chamber
- Eligibility for first chamber

- Eligibility for first chamber

- Removal of individual legislators

## 60. Tenure of seats of members of Parliament

1. A Senator (other than a Principal Chief) or a member of the National Assembly shall vacate his seat as such--
  - a. if he ceases to be a citizen of Lesotho; or
  - b. if any circumstances arise that, if he were not such a Senator or a member of the National Assembly, would cause him to be disqualified under section 59(1) of this Constitution to be nominated or designated as such or, as the case may be, to be elected as such; or
  - c. at the next dissolution of Parliament after his nomination, designation or election; or
  - d. in the case of a member of the National Assembly, if he ceases to be registered in some constituency as an elector in elections to the National Assembly or if he ceases to be qualified to vote in some constituency in such elections; or
  - e. in the case of a member of the National Assembly, if any circumstances arise that, if he were not a member of the National Assembly, would cause him to be disqualified to be elected as such under section 59(5) of this Constitution or under any law made in pursuance of section 59(2), 59(3) or 59(4) of this Constitution; or
  - f. in the case of a Senator nominated under section 55 of this Constitution, if any circumstances arise that, if he were not such a Senator, would cause him to be disqualified to be so nominated under any law made in pursuance of section 59(4) of this Constitution.
  - g. if, in any one year and without the written permission of the President of the Senate or, as the case may be, the Speaker of the National Assembly he is absent from one-third of the total number of sittings of the House of which he is a member,
2. Parliament may, in order to permit any member of either House of Parliament who has been sentenced to death or imprisonment in terms of paragraph (b) of section 59(1), adjudged or declared to be of unsound mind, adjudged or declared insolvent or convicted or reported guilty of any offence prescribed under section 57(4), 57(7) or 59(3) of this Constitution to appeal against the decision in accordance with any law, provide that, subject to such conditions as may be prescribed by Parliament, the decision shall not have effect for the purpose of this section until such time as may be so prescribed.

- Attendance by legislators

- Leader of second chamber

## 61. President of Senate

1. There shall be a President of the Senate who shall be elected by the Senate either from among the persons who are Senators or from among other persons.

2. A person shall not be qualified to be elected as President--
  - a. if he is a Minister or a Deputy Minister; or
  - b. in the case of a person who is not a Senator, if he would not be qualified to be nominated or designated as a Senator under section 59(1) of this Constitution or under a law made in pursuance of section (4) of this Constitution.
3. The President shall vacate his office--
  - a. if, having been elected from among the Senators, he ceases to be a Senator otherwise than by reason of dissolution of Parliament; or
  - b. in the case of a President who was elected from among persons who were not Senators, if any circumstances arise that would cause him to be disqualified to be nominated or designated as a Senator under section 59(1) of this Constitution or under a law made in pursuance of section 59(4) of this Constitution; or
  - c. if he becomes a Minister or a Deputy Minister; or
  - d. when the Senate first meets after a dissolution of Parliament; or
  - e. if he is removed from office by resolution of the Senate supported by the votes of two-thirds of all the Senators.
4. No business shall be transacted in the Senate (other than the election of a President) at any time when the office of President is vacant.

## 62. Vice-President of Senate

1. There shall be a Vice-President of the Senate who shall be elected by the Senate either from among the persons who are Senators or from among other persons.
2. A person shall not be qualified to be elected as Vice-President--
  - a. if he is a Minister or a Deputy Minister; or
  - b. in the case of a person who is not a Senator, if he would not be qualified to be nominated or designated as a Senator under section 59(1) of this Constitution or under a law made in pursuance of section 59(4) of this Constitution.
3. The Senate shall elect a Vice-President--
  - a. subject to the provisions of section 61(4) of this Constitution, when it first meets after a dissolution of Parliament; and
  - b. when it first meets after the office of Vice-President has otherwise become vacant,

or as soon thereafter as may be convenient.

4. The Vice-President shall vacate his office--
  - a. if, having been elected from among the Senators, he ceases to be a Senator otherwise than by reason of a dissolution of Parliament; or
  - b. in the case of a Vice-President who was elected from among persons who were not Senators, if any circumstances arise that would cause him to be disqualified to be nominated or designated as a Senator under section 59(1) of this Constitution or under a law made in pursuance of section 59(4) of this Constitution; or
  - c. if he becomes a Minister or a Deputy Minister; or
  - d. when the Senate first meets after a dissolution of Parliament; or
  - e. if he is removed from office by resolution of the Senate.

• Leader of first chamber

## 63. Speaker of National Assembly

1. There shall be a Speaker of the National Assembly who shall be elected by the Assembly either from among the persons who are members thereof or from among other persons.
2. A person shall not be qualified to be elected as a Speaker--
  - a. if he is a Minister or a Deputy Minister; or
  - b. in the case of a person who is not a member of the National Assembly, if he would not be qualified to be elected as such a member under section 59(1) of this Constitution or under a law made in pursuance of section 59(3) or 59(4) of this Constitution.
3. The Speaker shall vacate his office--
  - a. if, having been elected from among the members of the National Assembly, he ceases to be a member of the Assembly otherwise than by

3.
  - a. reason of a dissolution of Parliament; or
  - b. in the case of a Speaker who was elected from among persons who were not members of the National Assembly, if any circumstances arise that would cause him to be disqualified to be elected as such a member under section 59(1) of this Constitution or under a law made in pursuance of section 59(3) or 59(4) of this Constitution; or
  - c. if he becomes a Minister or a Deputy Minister; or
  - d. when the National Assembly first meets after a dissolution of Parliament; or
  - e. if he is removed from office by resolution of the National Assembly supported by the votes of two-thirds of all the members thereof.
4. No business shall be transacted in the National Assembly (other than the election of a Speaker) at any time when the office of Speaker is vacant.

## 64. Deputy Speaker of National Assembly

1. There shall be a Deputy Speaker of the National Assembly who shall be elected by the Assembly either from among the persons who are members thereof or from among other persons.
2. A person shall not be qualified to be elected as Deputy Speaker--
  - a. if he is a Minister or a Deputy Minister; or
  - b. in the case of a person who is not a member of the National Assembly, if he would not be qualified to be elected as such a member under section 59(1) of this Constitution or under a law made in pursuance of section 59(3) or 59(4) of this Constitution.
3. The National Assembly shall elect a Deputy Speaker--
  - a. subject to the provisions of section 63(4) of this Constitution, when it first meets after a dissolution of Parliament; and
  - b. when it first meets after the office of Deputy Speaker has otherwise become vacant,

or as soon thereafter as may be convenient.
4. The Deputy Speaker shall vacate his office--
  - a. if, having been elected from among the members of the National Assembly, he ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or
  - b. in the case of a Deputy Speaker who was elected from among persons who were not members of the National Assembly, if any circumstances arise that would cause him to be disqualified to be elected as such a member under section 59(1) of this Constitution or under a law made in pursuance of section 59(3) or 59(4) of this Constitution; or
  - c. if he becomes a Minister or a Deputy Minister; or
  - d. when the National Assembly first meets after a dissolution of Parliament; or
  - e. if he is removed from office by resolution of the National Assembly.

## 65. Clerks to Houses of Parliament and their staffs

1. There shall be a Clerk to the Senate and a Clerk to the National Assembly.
2. The offices of the Clerk to the Senate and the National Assembly shall be offices in the parliament service, and an Act of Parliament shall make provision for their functions, terms and conditions of Service.

### 65A. Establishment of parliament service

There shall be a parliament service which shall be responsible for parliament affairs.

### 65B. Parliament Service Commission

1. There shall be a Parliament Service Commission, which shall be an autonomous body.
2. The composition, powers and functions of the Parliament Service Commission shall be provided for by an Act of Parliament.

- Electoral commission

## 66. Independent Electoral Commission

1. There shall continue to be an Independent Electoral Commission consisting of a chairman and two members, who shall be appointed by the King acting in accordance with the advice of the Council of State.
2. A person to be appointed as a member shall be of a high moral character and proven integrity and should either qualify to hold a high judicial office or should possess considerable experience and demonstrated competence in the administration of public affairs.
3. In its advice to the King under subsection (1), the Council of State shall submit to him the names of three persons selected from a list of not less than five names.
4. For the purpose of enabling the Council of State to select the names of persons to be submitted to the King under subsection (3), the Council shall request all registered political parties in accordance with a procedure agreed by them to jointly propose to the Council, within a period of thirty days from the date specified by the Council, a list of not less than five names.
5. In this section, a registered political party means a political party registered under the provisions of the National Assembly Election Order
6. A person shall not be qualified to be appointed as a member of the Electoral Commission or, if he is a member, to continue holding that office if he is or, as the case may be, becomes -
  - a. a member of the National Assembly or of the Senate;
  - b. an office-bearer of a political party, whether or not the party is a registered political party;
  - c. a public officer, other than a Judge of the High Court or the Court of Appeal;
  - d. a member of a local authority; or
  - e. a person disqualified, by any other law enacted by Parliament, from being a member.
7. A member of the Electoral Commission shall hold office for such term, being not more than five years, as is specified in his instrument of appointment, and may be reappointed for only one further term not exceeding five years.
8. If the office of Chairman of the Electoral Commission is vacant or if the person holding that office is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be exercised by such one of the other members of the Commission as may for the time being be designated in that behalf by the King, acting in accordance with the advice of the Council of State.
9. If at any time there are less than two members of the Electoral Commission besides the Chairman or if any such member is appointed to act as Chairman or is for any reason unable to exercise the functions of his office, the King, acting in accordance with the advice of the Council of State, may appoint a person who is qualified to be appointed as a member of the Electoral Commission to act as a member, and any person so appointed shall, subject to the provisions of subsection (5), continue to act until the office in which he is acting has been filled or, as the case may be, until the holder thereof has resumed his functions or until his appointment to act has been revoked by the King, acting in accordance with the advice of the Council of State.
10. The Chairman or any other member of the Electoral Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.
11. The Chairman or any other member of the Electoral Commission shall be removed from office by the King if the question of his removal from office has been referred to a tribunal appointed under subsection (12) and the tribunal has recommended to the King that he ought to be removed from office for the inability or for the misbehaviour referred to in subsection (10).
12. If the Council of State represents to the King that the question of removing a member of the Commission under this section ought to be investigated, then -
  - a. the King shall appoint a tribunal consisting of a Chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held high judicial office; and

12.
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the King and recommended to him what action is to be taken in relation to the Chairman or any other member.
13. If the question of removing the Chairman or a member from office has been referred to a tribunal under subsection (11), the King, acting in accordance with the advice of the Council of State, may suspend the Chairman, or as the case may be, the member, from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with that advice, and shall in any case cease to have effect if the tribunal advises the King that the Chairman or the member should not be removed from office.

- Electoral commission

## 66A. Powers, duties and functions of Electoral Commission

1. The Electoral Commission shall have the following functions -
  - a. to ensure that elections to the National Assembly and local authorities are held regularly and that every election or referendum held is free and fair;
  - b. to organize, conduct and supervise, in an impartial and independent manner, elections to the National Assembly and referenda under the provisions of this Constitution and any other law;
  - c. to delimit the boundaries of constituencies in accordance with the provisions of this Constitution and any other law;
  - d. to supervise and control the registration of electors;
  - e. to compile a general register of electors and constituency registers of electors for the several constituencies and to maintain such register or registers up to date;
  - f. to promote knowledge of sound democratic electoral processes;
  - g. to register political parties;
  - h. to ascertain, publish and declare the results of elections and referenda;
  - i. to adjudicate complaints of alleged irregularities in any aspect of the electoral or referendum process at any stage other than in an election petition; and
  - j. to perform such other functions as may be prescribed by or under any law enacted by Parliament.
2. In order to discharge the duties and functions referred to in subsection (1), the Electoral Commission may -
  - a. employ staff on terms and conditions of employment determined by it after consultation with the Public Service Commission;
  - b. take into employment public officers seconded to it in terms of subsection (3).
3. The Minister responsible for the Public Service shall, when requested by the Electoral Commission, make available to the Commission any public officer of any authority of the Government for the purpose of the discharge of its functions, and the appointment, exercise of disciplinary control or removal of any public officer in relation to the performance of his electoral functions shall be vested in the Commission.

- Municipal government
- Referenda

- Referenda

- Electoral districts

- Referenda

- Referenda

## 66B. Decisions of Commission

1. Every decision of the Commission shall, as far as possible, be by consensus.
2. Where on any matter consensus cannot be obtained, the matter shall be decided by voting; and the matter shall be taken to have been decided if supported by the votes of a majority of all the members of the Commission.
3. In any vote under subsection (2), each member of the Commission, including the Chairman, shall have one vote and none shall have a casting vote.
4. The Electoral Commission -
  - a. may regulate its own procedure; and
  - b. may act notwithstanding any vacancy in its membership or the absence of any member and its proceeding shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.

## 66C. Independence of Commission

The Electoral Commission shall not, in the performance of its functions, be subject to the direction or control of any person or authority.

## 66D. Funds and expenses of Commission

1. Parliament shall provide funds to enable the Commission to perform its functions effectively.
2. The funds required to meet the expenses of the Commission in the performance of its functions, including the salaries, allowances and terminal benefits payable to or in respect of the members of the Commission, shall be a charge on the Consolidated Fund.

- Electoral districts

## 67. Delimitation of Constituencies

1. For the purpose of elections to the National Assembly Lesotho shall, in accordance with the provisions of this section, be divided into eighty constituencies by an order made by the Electoral Commission.
2. All constituencies shall contain as nearly equal numbers of inhabitants of or above the age of eighteen years as appears to the Commission to be reasonably practicable, but the Commission may depart from this principle to such extent as it considers expedient in order to take account of--
  - a. the density of population, and in particular the need to ensure adequate representation of sparsely populated rural areas;
  - b. the means of communication;
  - c. geographical features;
  - d. community of interest; and
  - e. the boundaries of existing administrative areas:

Provided that the number of inhabitants, of or above the age of twenty-one years, of any constituency shall not exceed or fall short of the population quota by more than ten per cent.

- Census

3. The Commission shall review the boundaries of the constituencies into which Lesotho is divided in the case of any review after the review of boundaries referred to in Section 159(3), not less than eight nor more than ten years from the date of completing its last review, and may, by order, alter the boundaries in accordance with the provisions of this section to such extent as it considers desirable in the light of the review:

Provided that whenever a census of the population has been held in pursuance of any law the Commission may carry out such a review and make such an alteration to the extent which it considers desirable in consequence of that census.

- Census

- 3A. In conducting a review of boundaries of the constituencies under this section, the Commission shall, in accordance with such procedure as may be prescribed by the Commission, enable representations to be made regarding any matter relating to a proposed review.
4. Every order made by the Commission under this section shall be published in the Gazette and shall come into effect upon the next dissolution of Parliament after it was made.
5. For the purposes of this section the number of inhabitants of any part of Lesotho of or above the age of eighteen years shall be ascertained by reference to the latest census of the population held in pursuance of any law:

Provided that if the Commission considers, by reason of the passage of time since the holding of the latest census or otherwise, that it is desirable so to do it may instead or in addition have regard to any other available information which, in the opinion of the Commission, best indicates the number of those inhabitants.

6. In this section "the population quota" means the number obtained by dividing by eighty the number of the inhabitants of Lesotho of or above the age of eighteen

6. years.

## 68. [repealed by Act No. 7 of 1997]

## 69. Decision of questions as to membership of Parliament

1. The High Court shall have jurisdiction to hear and determine any question whether--
  - a. any person is validly nominated or designated as a Senator under section 55 of this Constitution;
  - b. any person has been validly elected as a member of the National Assembly; or
  - c. the seat in Senate or the National Assembly of any member thereof has become vacant;
  - d. proportional representation seats have been properly allocated.
2. An application to the High Court for the determination of any question under subsection (1)(a) may be made by any Senator or by any person who is registered as an elector in elections to the National Assembly or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.
3. An application to the High Court for the determination of any question under subsection (1)(b) may be made by any person qualified to vote in the election to which the application relates or by a political party which participated in the election or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.
4. An application to the High Court for the determination of any question under subsection (1)(c) may be made by any member of the National Assembly or by any person registered as an elector in elections to the National Assembly or by a political party which participated in the elections or by the Attorney-General and, if it is made by a person other than the Attorney-General, the Attorney-General may intervene and may then appear or be represented in the proceedings.
- 4A. An application to the High Court for the determination of any question under subsection (1)(d) may be made by a member of the National Assembly or by any person registered as an elector in the elections to the National Assembly or by a political party which participated in the elections or the Independent electoral Commission or the Attorney-General, and if it is made by a person other than the Attorney-General the Attorney-General may intervene and may then appear or be represented in the proceedings.
5. Parliament may make provision with respect to--
  - a. the circumstances and manner in which and the conditions upon which any application may be made to the High Court for the determination of any question under this section; and
  - b. the powers, practice and procedure of the High Court in relation to any such application,

but, subject to any provision in that behalf made by Parliament under this subsection, the practice and procedure of the High Court in relation to any such application shall be regulated by rules made by the Chief Justice.

## Part 2. Legislation and Procedure in Parliament

### 70. Functions of Parliament

1. The Parliament of Lesotho shall have power to -
  - a. make laws;
  - b. appropriate funds for expenditure by Government ministries, department, state institutions, local authorities and any other organs of state;
  - c. exercise oversight over public expenditure and oversee the general performance of local authorities, the Executive and other State organs; and
  - ci. approve International Conventions and Treaties before they are ratified or acceded to, except for all non-binding memoranda of understanding,

- Treaty ratification
- International law

1. ci. exchange of notes, declarations and any such non-binding instruments.
2. Nothing in this section shall be construed as preventing Parliament from conferring on any other person or authority the power to make any rules, regulations, laws, orders or other instruments having legislative effect as Parliament may determine.
3. Parliament shall establish a Parliament Budget Office and other specialized offices that enables it to function and discharge its mandate as may be provided for by an Act of Parliament.

- Oaths to abide by constitution

## 71. Oath to be taken by members of Parliament

1. Every member of either House of Parliament shall, before taking his seat in that House, take and subscribe the oath of allegiance before the House, but a member may before taking and subscribing that oath take part in the election of the President or of the Speaker.
2. Any person elected as President or Vice-President or elected as Speaker or Deputy Speaker shall, if he has not already taken and subscribed the oath of allegiance under subsection (1), take and subscribe that oath before the appropriate House before entering upon the duties of his office.

- Leader of second chamber

## 72. Presiding in Senate

There shall preside at any sitting of the Senate--

- a. the President of the Senate; or
- b. in the absence of the President, the Vice-President; or
- c. in the absence of the President and the Vice-President, such Senator as the Senate may elect for that purpose.

- Leader of first chamber

## 73. Presiding in National Assembly

There shall preside at any sitting of the National Assembly--

- a. the Speaker of the National Assembly; or
- b. in the absence of the Speaker, the Deputy Speaker; or
- c. in the absence of the Speaker and the Deputy Speaker, such member of the Assembly as the Assembly may elect for that purpose.

- Quorum for legislative sessions

## 74. Quorum in the Houses of Parliament

1. If objection is taken by any Senator who is present that there are present in the Senate (besides the person presiding) fewer than eight Senators and, after such interval as may be prescribed in the rules of procedure of the Senate, the person presiding ascertains that there are still fewer than eight Senators present, he shall thereupon adjourn the Senate.
2. If objection is taken by any member of the National Assembly who is present, that there are present in the National Assembly (besides the person presiding) fewer than thirty members of the National Assembly and, after such interval as may be prescribed in the rules of procedure of the National Assembly, the person presiding ascertains that there are still fewer than thirty members of the National Assembly present, he shall thereupon adjourn the National Assembly.

## 75. Voting in Parliament

1. Save as otherwise provided in this Constitution, any question proposed for decision in either House of Parliament shall be determined by a majority of the votes of the members present and voting.
2. The person presiding in either House of Parliament shall, if he is a member thereof, have an original vote but he shall have no casting vote, and whenever there is an equality of votes on any question, the motion before the House shall be deemed to have been negatived.

3. The rules of procedure of either House of Parliament may make provision under which a member who votes upon a question in which he has a direct pecuniary interest shall be deemed not to have voted.

## 76. Right of Ministers, Deputy Ministers and the Attorney-General to address either House, etc.

1. A Minister or a Deputy Minister who is a member of the National Assembly shall be entitled to attend all meetings of the Senate and to take part in all proceedings thereof but he shall not be regarded as a member of, or be entitled to vote on any question before, the Senate; and a Minister or a Deputy Minister who is a Senator shall be entitled to attend all meetings of the National Assembly and to take part in all proceedings thereof but he shall not be regarded as a member of, or be entitled to vote on any question before, the National Assembly.
2. The Attorney-General shall be entitled to attend the National Assembly or the Senate and to take part in the proceedings of either House of Parliament but he shall not be entitled to vote on any question before the National Assembly or the Senate.

## 77. Unqualified persons sitting or voting

1. Any person who sits or votes in either House of Parliament knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and liable to a fine not exceeding one hundred maloti, or such other sum as may be prescribed by Parliament, for each day on which he so sits and votes in that House.
2. Any prosecution for an offence under this section shall be instituted in the High Court and shall not be so instituted except by the Director of Public Prosecutions.

## 78. Mode of exercise of legislative power

- Initiation of general legislation
- Approval or veto of general legislation
- Division of labor between chambers

1. The power of Parliament to make laws shall be exercisable by bills passed by both Houses of Parliament (or, in the cases mentioned in section 80 of this Constitution, by the National Assembly) and assented to by the King.
2. A bill may originate only in the National Assembly.
3. When a bill has been passed by the National Assembly it shall be sent to the Senate and--
  - a. when it has been passed by the Senate and agreement has been reached between the two Houses on any amendments made to it by the Senate; or
  - b. when it is required to be presented under section 80 of this Constitution,
 it shall be presented to the King for assent.

- Approval or veto of general legislation
- Approval or veto of general legislation
- Approval or veto of general legislation

- 3a. The National Assembly may, by resolution and with the approval of Cabinet, reinstate a bill that lapsed when Parliament was prorogued or dissolved.
- 3b. The King may assent to a bill that has been passed by the two Houses presented to him after prorogation or dissolution of Parliament.
4. When a bill has been presented to the King for assent in pursuance of subsection (3), he shall signify that he assents or that he withholds assent.
5. When a bill that has been duly passed is assented to in accordance with the provisions of this Constitution it shall become law and the King shall thereupon cause it to be published in the Gazette as a law.
6. No law made by Parliament shall come into operation until it has been published in the Gazette but Parliament may postpone the coming into operation of any such law and may make laws with retrospective effect.
7. All laws made by Parliament shall be styled "Acts of Parliament" and the words of enactment shall be "Enacted by the Parliament of Lesotho".

## 79. Restrictions with regard to certain financial measures

Except with the consent of the Cabinet signified by a Minister, neither House of Parliament shall--

- a. proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes--
  - i. for the imposition of taxation or the alteration of taxation otherwise than by reduction;
  - ii. for the imposition of any charge upon the Consolidated Fund or any other public fund of Lesotho or the alteration of any such charge otherwise than by reduction;
  - iii. for the payment, issue or withdrawal from the Consolidated Fund or any other public fund of Lesotho of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or
  - iv. for the composition or remission of any debt due to the Government of Lesotho; or
- b. proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes.

- Tax bills
- Spending bills
- Spending bills

## 80. Limitation of powers of Senate

1. When a bill that is passed by the National Assembly and that is certified by the Speaker of the National Assembly under subsection (2) as an Appropriation bill is sent to the Senate it shall forthwith be introduced in the Senate and shall be passed by the Senate without delay; and if it is not passed by the Senate by the end of the day after the day on which it was sent to the Senate or if it is passed by the Senate with amendments to which the National Assembly does not by then agree, the bill, with such amendments, if any, as may have been agreed to by both Houses, shall, unless the National Assembly otherwise resolves, be presented to the King for assent.
2. When a bill that in the opinion of the Speaker of the National Assembly is an Appropriation bill is sent to the Senate from the National Assembly it shall bear a certificate of the Speaker of the National Assembly that it is an Appropriation bill.
3. When a bill, other than a bill that is certified by the Speaker as an Appropriation bill, is passed by the National Assembly and, having been sent to the Senate at least thirty days before the end of the session, is not passed by the Senate within thirty days after it is so sent or is passed by the Senate with amendments to which the National Assembly does not agree within thirty days after the bill was sent to the Senate, the bill, with such amendments, if any, as may have been agreed to by both Houses, shall, unless the National Assembly otherwise resolves, be presented to the King for assent.
4. When a bill is presented to the King in pursuance of this section for assent it shall bear a certificate by the Speaker of the National Assembly that this section has been complied with.
5. A certificate given by the Speaker of the National Assembly under this section shall be conclusive for all purposes and shall not be questioned in any court.
6. Any function that, under this section, falls to be exercised by the Speaker of the National Assembly may, if he is absent or is for any other reason unable to exercise the functions of his office, be exercised by the Deputy Speaker.

- First chamber reserved policy areas
- Spending bills

## 80A. Joint sittings of Parliament

1. The King may summon the Senate and the National Assembly to convene in a joint sitting for the delivery of the Speech from the Throne.
2. The President of the Senate and the Speaker of the National Assembly may, acting jointly, convene a joint sitting of the two Houses of Parliament under the following circumstances for:
  - a. the delivery of policy statements by the Prime Minister;
  - b. presentation of the budget speech; and
  - c. addresses by visiting Heads of State, Government and other dignitaries.
3. The joint sitting of both Houses shall be presided over jointly by the President of the Senate and the Speaker of the National Assembly.
4. An Act of Parliament shall prescribe the-

- Joint meetings of legislative chambers

4.
  - a. conditions under which joint sittings of both Houses or their committees, may be held; and
  - b. procedure for deliberations in such joint sittings.

### 81. Regulation of procedure in Parliament etc

1. Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure and may in particular make rules for the orderly conduct of its own proceedings.
2. Each House of Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any general election) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.
3. Parliament may, for the purpose of the orderly and effective discharge of the business of the two Houses, make provision for the powers, privileges and immunities of those Houses and the Committees and the members thereof (including any person who is President or Vice-President or Speaker or Deputy Speaker of either House, having been elected from among persons who were not members thereof).

- Legislative committees

## Part 3. Summoning, Prorogation and Dissolution

- Length of legislative sessions

### 82. Sessions of Parliament, etc

1. Each session of Parliament shall be held at such place within Lesotho and shall begin at such time as the King shall appoint:

Provided that--

- a. the time appointed for the meeting of Parliament after Parliament has been prorogued shall be not later than two months from the end of the preceding session; and
- b. after Parliament has been dissolved, the time appointed for the meeting of the National Assembly shall not be later than thirty days after the holding of a general election of members of the National Assembly and the time appointed for the meeting of the Senate shall be such time as may be convenient after the nomination of one or more Senators in accordance with section 55 of this Constitution.

2. Subject to the provisions of subsection (1), the sittings of each House of Parliament shall be held at such time and place as that House may, by its rules of procedure or otherwise, determine.

### 83. Prorogation and dissolution of Parliament

1. The King may at any time prorogue or dissolve Parliament.
2. Subject to the provisions of subsection (3), Parliament, unless sooner dissolved, shall continue for five years from the date when the two Houses of Parliament first meet after any dissolution and shall then stand dissolved.
3. At any time when Lesotho is at war Parliament may from time to time extend the period of five years specified in subsection (2) for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

4. In the exercise of his powers to dissolve or prorogue Parliament, the King shall act in accordance with the advice of the Prime Minister:

Provided that--

- a. if the National Assembly passes a resolution of no confidence in the Government of Lesotho the Prime Minister shall resign if the resolution of

- Dismissal of the legislature
- Term length of second chamber
- Term length for first chamber

- Emergency provisions

- Dismissal of the legislature

- Head of government removal

4.
  - a. no confidence proposes a name of a member of the National Assembly for the King to appoint in the place of the Prime Minister;
  - b. the Prime Minister shall not advise a dissolution under this section, unless the dissolution is supported by a resolution of two thirds majority of the members of the National Assembly;
  - c. if the office of the Prime Minister is vacant and the King considers that there is no prospect of him being able, within sixty days, to find a person who is the leader of a political party or a coalition of political parties that will command the support of a majority of the members of the National Assembly, he may, acting in accordance with the advice of the Council of State, dissolve Parliament.
5. Where the office of the Prime Minister is vacant, there shall be a caretaker Government which shall be headed by the Deputy Prime Minister acting as Prime Minister.
6. The caretaker Government shall serve prior to the dissolution under subsection (4)(c), until the holding of the next general election .
7. The powers of the Prime Minister or Deputy Prime Minister as a caretaker Government are limited in their function, serving only to maintain the status quo.

## 84. General elections

- Scheduling of elections

1. Subject to the provisions of subsection (2), a general election of members of the National Assembly shall be held at such time within three months after any dissolution of Parliament as the King may appoint.
2. If, after a dissolution of Parliament and before the holding of a general election of members of the National Assembly, the King is advised by the Council of State that, owing to a state of war or of a state of emergency in Lesotho, it is necessary to recall Parliament, the King shall recall the Parliament that has been dissolved and that Parliament shall be deemed to be the Parliament for the time being (and the members of the dissolved Parliament shall be deemed to be the members of the recalled Parliament), but the general election of members of the National Assembly shall proceed and the recalled Parliament shall, if not sooner dissolved, stand dissolved on the day immediately preceding the day fixed for such general election or, if more than one such day, the first of such days.

- Emergency provisions
- Extraordinary legislative sessions

### 84A. Power of Parliament to enact further provisions

Parliament may, subject to the provisions of this Constitution, enact such laws as may be necessary for the purposes of this Chapter including laws for the registration of electors, the conduct of elections, the powers, duties and functions of the Electoral Commission and the registration and regulation of political parties.

- Referenda

### 84B. Referendum

1. The King may, on the advice of the Prime Minister order that a referendum be conducted to obtain the opinion of the electors on any matter he considers to be of national interest.
2. Parliament may make provision for the conduct of a referendum.

## CHAPTER VII. ALTERATION OF CONSTITUTION

- Constitution amendment procedure

### 85. Alteration of Constitution

1. Subject to the provisions of this section, Parliament may alter this Constitution.
2. A bill for an Act of Parliament under this section shall not be passed by Parliament unless it is supported at the final voting in the National Assembly by

- Referenda

2. the votes of the majority of all the members of the Assembly and, having been sent to the Senate, has become a bill that, apart from this section, may be presented to the King for his assent under subsection 80(1) or (3) as the case may be, of this Constitution.
3. A bill to alter any of the following provisions of this Constitution, that is to say--
  - a. this section, sections 1(1) and 2, Chapter II except sections 18(4) and 24(3), sections 44 to 48 inclusive, 50(1) to (3), 52, 86, 91 (1) to (4), 92, 95, 103, 104, 107, 108, 118(1) and (2), 119(1) to (3), 120(1), (2), (4), and (5), 121, 123(1), (3), (4), 125, 128, 129, 132, 133 and sections 154 and 155 in their application to any of the provisions mentioned in this paragraph; and
  - b. sections 37, 38, 54 to 60 inclusive; sections 66, 66A, 66B, 66C and 66D, 67, 68, 69(1) and (6), 70, 74, 75(1), 78(1), (2), (3) and (4), 80(1), (2), and (3), 82(1), 83 and 84; sections 134 to 142 inclusive, 150 and 151 and sections 154 and 155 in their application to any of the provisions mentioned in this paragraph,

shall not be submitted to the King for his assent unless the bill, not less than two nor more than six months after its passage by Parliament, has, in such manner as may be prescribed by or under an Act of Parliament, been submitted to the vote of the electors qualified to vote in the election of the members of the National Assembly, and the majority of the electors voting have approved the bill:

Provided that if the bill does not alter any of the provisions mentioned in paragraph (a) and is supported at the final voting in each House of Parliament by the votes of no less than two-thirds of all the members of that House it shall not be necessary to submit the bill to the vote of the electors.

4. Nothing in section 80 of this Constitution affects the operation of subsection (3).
5. In this section--
  - a. references to this Constitution or to any particular provision thereof include references to any other law in so far as that law alters the Constitution or, as the case may be, that provision; and
  - b. references to altering this Constitution or any particular provision thereof include references to repealing it, with or without re-enactment thereof or the making of different provision in lieu thereof, to modifying it and to suspending its operation for any period.

## CHAPTER VIII. THE EXECUTIVE

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- Name/structure of executive(s)

### 86. Executive authority of Lesotho

The executive authority of Lesotho is vested in the King and, subject to the provisions of this Constitution, shall be exercised by him through officers or authorities of the Government of Lesotho.

### 87. Ministers of Government of Lesotho

- Head of government selection
- Name/structure of executive(s)
- Eligibility for head of government
- Age restrictions on head of government
- Head of government's role in the legislature

1. There shall be a Prime Minister who shall be appointed by the King acting in accordance with the advice of the Council of State.
2. The King shall appoint as Prime Minister the member of the National Assembly who appears to the Council of State to be the leader of the political party or coalition of political parties that will command the support of a majority of the members of the National Assembly:

Provided that if occasion arises for making an appointment to the office of Prime Minister while Parliament stands dissolved, a person who was a member of the National Assembly immediately before the dissolution may be appointed to the office of Prime Minister.

- Establishment of cabinet/ministers
- Cabinet selection
- Deputy executive

3. There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of Lesotho (not being less than seven in number and one of which shall be the office of Deputy Prime Minister) as may be established by Parliament or, subject to any provision made by Parliament, by the King, acting in accordance with the advice of the Prime Minister.
4. The King shall, acting in accordance with the advice of the Prime Minister, appoint the other Ministers from among the members of the National Assembly or from among the Senators who are nominated as Senators by the King under section 55 of this Constitution:

Provided that if occasion arises for making an appointment to the office of Minister other than Prime Minister while Parliament stands dissolved a person who immediately before the dissolution was a member of the National Assembly or such a Senator may be appointed to the office of Minister.

- Cabinet selection
- Eligibility for cabinet

- Head of government removal

5. The King may, acting in accordance with the advice of the Council of State, remove the Prime Minister from office--
  - a. if a resolution of no confidence is passed by the National Assembly in the Government of Lesotho and the Prime Minister does not within three days thereafter resign from his office; or
  - b. if at any time between the holding of a general election to the National Assembly and the date on which the Assembly first meets thereafter, the King considers that, in consequence of changes in the membership of the Assembly resulting from that election, the Prime Minister will no longer be the leader of the political party or coalition of political parties that will command the support of a majority of the members of the Assembly.

- Head of government removal

6. The office of the Prime Minister shall become vacant--
  - a. if he ceases to be a member of the National Assembly otherwise than by reason of a dissolution of Parliament; or
  - b. if, when the National Assembly first meets after a dissolution of Parliament, he is not then a member thereof.

- Eligibility for cabinet
- Cabinet removal

7. The office of a Minister other than the Prime Minister shall become vacant--
  - a. if he ceases to be a member of either House of Parliament otherwise than by reason of a dissolution of Parliament; or
  - b. if he becomes a Senator other than a Senator nominated under section 55 of this Constitution; or
  - c. if, when the two Houses of Parliament first meet after a dissolution he is not then either a member of the National Assembly or a Senator nominated under section 55 of this Constitution; or
  - d. if the King, acting in accordance with the advice of the Prime Minister, so directs; or
  - e. if the Prime Minister resigns from office within three days after the passage by the National Assembly of a resolution of no confidence in the Government of Lesotho or is removed from office under subsection (5); or
  - f. on the appointment of any person to the office of Prime Minister.

8. A resolution of no confidence in the Government of Lesotho shall not be effective for the purposes of subsections (5)(a) and (7)(e) unless it proposes the name of a member of the National Assembly for the King to appoint in the place of the Prime Minister.

- Establishment of cabinet/ministers

## 88. Cabinet

- Powers of cabinet

1. There shall be a Cabinet of Ministers, consisting of the Prime Minister and the other Ministers.
2. The functions of the Cabinet shall be to advise the King in the government of Lesotho, and the Cabinet shall be collectively responsible to the two Houses of Parliament for any advice given to the King by or under the general authority of the Cabinet and for all things done by or under the authority of any Minister in the execution of his office.
3. The provisions of subsection (2) shall not apply in relation to--
  - a. the appointment and removal from office of Ministers and Deputy Ministers, the assignment of responsibility to any Minister under section 89 of this Constitution or, save in circumstances set out in the proviso to section 90(3), the authorisation of another Minister under section 90 of

3.
  - a. this Constitution to exercise the functions of the Prime Minister during the latter's absence or illness; or
  - b. the dissolution or prorogation of Parliament.

## 89. Allocation of portfolios to Ministers

The King, acting in accordance with the advice of the Prime Minister, may, by directions in writing, assign to the Prime Minister or any other Minister responsibility for any business of the Government of Lesotho, including the administration of any department of Government:

Provided that authority to exercise any power or discharge any duty that is conferred or imposed by this Constitution or any other law on the King or on any other person or authority, not being the Minister concerned, shall not be conferred or imposed upon any Minister under this section.

## 90. Exercise of Prime Minister's functions during absence, being on leave or illness

1. Whenever the Prime Minister is absent from Lesotho, is on leave or is by reason of illness unable to exercise the functions conferred on him by this Constitution, those functions (other than the functions conferred by this section) shall be exercised by--
  - a. the Deputy Prime Minister; or
  - b. if the office of Deputy Prime Minister is vacant or the Deputy Prime Minister is absent from Lesotho, is on leave or is by reason of illness unable to exercise the functions of the office of Prime Minister, by such other Minister as the King may authorise in that behalf.
2. A Minister who is authorised by the King in pursuance of subsection (1)(b) to exercise the functions conferred on the Prime Minister by this Constitution may exercise those functions until his authority is revoked by the King.
3. The powers of the King under this section shall be exercised by him in accordance with the advice of the Prime Minister:

Provided that if the King considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence, being on leave or illness, he shall act in accordance with the advice of the Cabinet.

## 90A. Death, retirement or resignation of the Prime Minister

1. Notwithstanding the provisions of section 87(1) and (2), the King shall, upon the death, retirement or resignation of the Prime Minister, appoint a member of the National Assembly who appears to be the leader of the political party or coalition of political parties that commands the majority of the members of the National Assembly, as the Prime Minister, on the advice of the speaker.
2. Where there is no member who appears to be the leader of a political party or coalition of political parties that commands the majority of the members of the National Assembly in terms of subsection (1) the provisions of section 83(4)(c) shall apply.
3. The provisions of subsection (1) shall not apply where the Prime Minister dies, retires or resigns within three months before a dissolution of Parliament under section 83(2) .

## 91. Exercise of the King's functions

1. Subject to the provisions of section 137(4) of this Constitution, the King shall, in the exercise of his functions under this Constitution or any other law, act in accordance with the advice of the Cabinet or a Minister acting under the general authority of the Cabinet except in cases where he is required by this Constitution

• Deputy executive

1. or any other law to act in accordance with the advice of any person or authority other than the Cabinet.
2. Where the King is required by this Constitution to do any act in accordance with the advice of the Council of State and the Council of State is satisfied that the King has not done that act, the Council of State may inform the King that it is the intention of the Council of State to do that act after the expiration of a period to be specified by the Council of State, and if at the expiration of that period the King has not done that act, the Council of State may do that act themselves and shall, at the earliest opportunity thereafter, report the matter to Parliament; and any act so done by the Council of State shall be deemed to have been done by the King and to be his act.
3. Where the King is required by this Constitution to do any act in accordance with the advice of any person or authority other than the Council of State, and the Prime Minister is satisfied that the King has not done that act, the Prime Minister may inform the King that it is the intention of the Prime Minister to do that act himself after the expiration of a period to be specified by the Prime Minister, and if at the expiration of that period the King has not done that act the Prime Minister may do that act himself and shall, at the earliest opportunity thereafter, report the matter to Parliament; and any act so done by the Prime Minister shall be deemed to have been done by the King and to be his act.
4. No act of the King shall be valid to the extent that it is inconsistent with an act deemed to be his act by virtue of subsection (2) or (3).
5. Without prejudice to the generality of section 155(8) of this Constitution, where the King is required by this Constitution to act in accordance with the advice of any person or authority, the question whether he has received or acted in accordance with such advice shall not be enquired into in any court.
6. In this section, references to a requirement in this Constitution to act in accordance with the advice of some person or authority include references to the advice of, and a recommendation by, a tribunal and to the appointment to a tribunal of persons selected by any person or authority and any such reference shall be construed as a requirement to act in accordance with such advice, recommendation or selection.

## 92. The King's right to be consulted and informed concerning matters of government

The King shall have the right to be consulted by the Prime Minister and the other Ministers on all matters relating to the government of Lesotho and the Prime Minister shall keep him fully informed concerning the general conduct of the government of Lesotho and shall furnish him with such information as he may request in respect of any particular matter relating to the government of Lesotho.

## 93. Deputy Ministers

1. The King, acting in accordance with the advice of the Prime Minister, may appoint Deputy Ministers, to deputise Ministers in the performance of their duties, from among the members of the National Assembly or from among the Senators who are nominated as Senators by the King under section 55 of this Constitution:

Provided that, if occasion arises for making an appointment while Parliament stands dissolved, a person who immediately before the dissolution was a member of the National Assembly or was such a Senator as aforesaid may be appointed as a Deputy Minister.

2. The provisions of section 87(7) of this Constitution shall apply in relation to a Deputy Minister as they apply in relation to a Minister.
3. Whenever a Minister is absent from Lesotho, is on leave or is by reason of illness unable to exercise the functions conferred on him or her by this Constitution, those functions shall be exercised by the Deputy Minister.
4. If the Minister does not have a Deputy Minister or the Deputy Minister is absent from Lesotho, is on leave or is by reason of illness unable to exercise the

4. functions of the office of Minister, the assignment of responsibility to any Minister under section 89 shall apply.

- Oaths to abide by constitution

## 94. Oath to be taken by Ministers and Deputy Ministers

A Minister or a Deputy Minister shall not enter upon the duties of his office unless he has taken and subscribed an oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

- Advisory bodies to the head of state

## 95. The Council of State

1. There shall be in and for Lesotho a Council (to be styled the Council of State) to assist the King in the discharge of his functions and to exercise such other functions as are conferred by this Constitution.
2. The Council of State shall consist of--
  - a. the Prime Minister;
  - b. the Speaker of the National Assembly;
  - c. two judges or former judges of the High Court or Court of Appeal who shall be appointed by the King on the advice of the Chief Justice;
  - d. the Attorney-General;
  - e. the Commander of the Defence Force;
  - f. the Commissioner of Police;
  - g. a Principal Chief who shall be nominated by the College of Chiefs;
  - h. two members of the National Assembly appointed by the Speaker from among the members of the opposition party or parties. In making this appointment the Speaker shall appoint the leader of the opposition and the leader of the opposition party or coalition of parties having the next greatest numerical strength. If there is only one opposition party the Speaker shall appoint another member of that party;
  - i. not more than three persons who shall be appointed by the King on the advice of the Prime Minister, by virtue of their special expertise, skill or experience:

Provided that no person shall be appointed under this paragraph if he is disqualified to be elected as a member of the National Assembly under section 59 of this Constitution;

- j. a member of the legal profession in private practice who shall be nominated by the Law Society established by the Law Society Act 1983, or by some other professional body established under any law replacing the Law Society Act 1983.
3. A person who is not a citizen of Lesotho shall not be eligible to sit as a member of the Council of State.
4. Subject to subsection (5), a member of the Council of State referred to in subsection (2)(c), (g), (i) or (j) shall hold office for a period of six years but shall be eligible for reappointment as a member of the Council of State.
5. A member of the Council of State shall vacate his office--
  - a. in the case of a member referred to in subsection (2)(a), (b), (d), (e) or (f), if he ceases to hold the office by virtue of which he became such a member;
  - b. in the case of a member referred to in subsection (2)(c) if the King, acting in accordance with the advice of the Chief Justice, so directs;
  - c. in the case of a member referred to in subsection (2)(g), if he is removed by the College of Chiefs;
  - d. in the case of a member referred to in subsection (2)(h), if he ceases to be such leader as is mentioned in subsection (2)(h) or when the National Assembly first meets after a dissolution of Parliament, whichever first occurs;
  - e. in the case of a member referred to in subsection (2)(i), if he is removed by the King on the advice of the Prime Minister:

Provided that the provisions of section 142 (4) to (7) shall apply to any such member as they apply to a person holding the office of Auditor-General;

5. f. in the case of a member referred to in subsection (2)(j) if he is removed by the Law Society or such other professional body as is mentioned in subsection (2)(j).
6. The quorum of the Council of State is eight and subject thereto the Council may act notwithstanding any vacancy in its membership.
7. Meetings of the Council of State shall be summoned by the King and its advice shall be tendered in writing.
8. If the King does not call a meeting of the Council of State for consideration of any matter on which the advice of the Council is required, the Prime Minister shall summon a meeting of the Council of State, failing which any member of the Council, supported by not less than seven other members, may call a meeting of the Council of State.
9. The King may attend any meeting of the Council and, if he does attend, shall preside; in the absence of the King the Prime Minister or such other member as may be prescribed by its rules of procedure shall preside at meetings of the Council.
10. The Council of State may request any public officer or any other person holding or acting in any office established by or under this Constitution or any authority so established to assist it in the exercise of its functions (whether by way of attendance before the Council or otherwise) and any such officer or authority shall comply with any such request.
11. Subject to the provisions of this section, the Council of State may regulate its own procedure.

## 96. Government Secretary

1. There shall be a Government Secretary whose office shall be an office in the public service and who shall be the head of the civil service.
2. The Government Secretary shall be appointed
  - a. by the Prime Minister from a short list of three names recommended by the Public Service Commission through a transparent, merit-based, fair and competitive process as may be provided for in an Act of Parliament; and
  - b. for an initial period of five years which may be renewed for a further period of five years upon satisfactory performance of duties.

## 97. Permanent Secretaries

1. A Permanent Secretary, whose office shall be an office in the public service, shall be responsible for the supervision of a Government Ministry, where a Minister has been charged with responsibility to exercise general direction and control over the Ministry.
2. Two or more Government ministries may be placed under the supervision of one Permanent Secretary.
3. A Permanent Secretary shall
  - a. be appointed by the Public Service Commission through a transparent, merit-based, fair and competitive process as may be provided for in an Act of Parliament;
  - b. be the Chief Executive Officer and Chief Accounting Officer of the relevant Ministry; and
  - c. be employed for an initial period of five years which may be renewed for another five years upon satisfactory performance of duties.

• Attorney general

## 98. Attorney-General

1. There shall be an Attorney-General whose office shall be an office in the public service.
2. It shall be the duty of the Attorney-General-
  - a. to provide legal advice to Government;
  - b. to exercise ultimate authority over the Director of Public Prosecutions;
  - c. to take necessary legal measures for the protection and upholding of this Constitution and the other laws of Lesotho;

2.
  - d. to exercise or perform any of the rights, prerogatives, privileges or functions of the State before courts or tribunals; and
  - e. to perform such other duties and exercise such other powers as may be conferred on him by this Constitution or any other law.
3. The Attorney-General may exercise his functions personally or through officers subordinate to him in accordance with his general or special instructions.
4. In the exercise of the functions vested in him by subsection (2)(a) and (b) and section 69 of this Constitution, the Attorney-General shall not be subject to the direction or control of any other person or authority.
5. The Attorney-General shall take and subscribe such oath of office for the due execution of his functions as may be prescribed by Parliament.

- Attorney general

## 99. Director of Public Prosecutions

1. There shall be a Director of Public Prosecutions whose office shall be an office in the public service.
2. The Director of Public Prosecutions shall have power in any case in which he considers it desirable so to do--
  - a. to institute and undertake criminal proceedings against any person before any court (other than a court-martial) in respect of any offence alleged to have been committed by that person;
  - b. to take over and continue any such criminal proceedings that have been instituted or undertaken by any other person or authority; and
  - c. to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
3. The powers of the Director of Public Prosecutions under subsection (2) may be exercised by him in person or by officers subordinate to him acting in accordance with his general or special instructions.
4. The powers conferred on the Director of Public Prosecutions by subsections (2) (b) and (c) shall be vested in him to the exclusion of any other person or authority except the Attorney-General:

Provided that where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority and with the leave of the court.

5. For the purposes of this section, any appeal from a judgement in criminal proceedings before any court, or any case stated or question of law reserved for the purpose of any such proceedings, to any other court shall be deemed to be part of those proceedings:

Provided that the power conferred on the Director of Public Prosecutions by subsection (2)(c) shall not be exercised in relation to any appeal by a person convicted in any criminal proceedings or to any case stated or question of law reserved at the instance of such a person.

6. Save as provided in section 98(2)(b) of this Constitution, in the exercise of the functions conferred on him by subsection (2) of this section or section 77 of this Constitution the Director of Public Prosecutions shall not be subject to the direction or control of any other person or authority.

- Head of state powers

## 100. Constitution of offices

Subject to the provisions of this Constitution and of any other law, the King may constitute offices for Lesotho, make appointments to any such office and terminate any such appointment.

- Power to pardon

## 101. Prerogative of Mercy

1. The King may--

1.
  - a. grant to any person convicted of any offence under the law of Lesotho a pardon, either free or subject to lawful conditions;
  - b. grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
  - c. substitute a less severe form of punishment for any punishment imposed on any person for such an offence; and
  - d. remit the whole or part of any punishment imposed on any person for such an offence or any penalty or forfeiture otherwise due to the King on account of such an offence.
2. The powers of the King under subsection (1) shall be exercised by him acting in accordance with the advice of the Pardons Committee.

## 102. Pardons Committee on Prerogative of Mercy

1. There shall be a Pardons Committee on the Prerogative of Mercy which shall consist of a Chairman and two other members appointed by the King acting in accordance with the advice of the Judicial Service Commission from among persons who are not public officers or members of either House of Parliament.
2. The office of the Chairman or of any other member of the Committee appointed under subsection (1) shall become vacant--
  - a. at the expiration of three years from the date of his appointment; or
  - b. if the King, acting in accordance with the advice of the Judicial Service Commission, so directs; or
  - c. if any circumstances arise that, if he were not a member of the Committee, would cause him to be disqualified to be appointed as such under subsection (1).
3. The Committee may act notwithstanding any vacancy in its membership and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings.
4. The Committee may regulate its own procedure.

## 103. Chiefs

1. The twenty-two offices of Principal Chief set out in Schedule 2 to this Constitution and the other offices of Chief recognised under the law in force immediately before the commencement of this Constitution shall continue to exist.
2. Parliament may make provision for the regulation of offices of chief.
3. Each Chief shall have such functions as are conferred on him by this Constitution or by or under any other law.

## 104. College of Chiefs

1. There shall be a College of Chiefs which, subject to the provisions of subsection (3), shall consist of the twenty-two Principal Chiefs.
2. The College of Chiefs shall have the functions conferred on it by section 45 and section 46 of this Constitution and the duty to maintain and safeguard the national archives in relation to those functions, and it shall also have such other functions as may be conferred on it by any other law.
3. The College of Chiefs may, by resolution, co-opt members to assist it in the performance of its functions:

Provided that such co-opted members shall not exceed three in number at any one time.

4. A co-opted member of the College of Chiefs may attend and take part in all meetings of the College but he shall not be entitled to vote on any question before the College.
5. The College of Chiefs may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

5. Provided that any decision of the College shall require the concurrence of a majority of all the members thereof (other than the co-opted members).
6. Subject to the provisions of this section, the College of Chiefs may regulate its own procedure.

- Economic plans

## 105. National Advisory Planning Board

1. There shall be a National Advisory Planning Board which shall consist of the following members,
  - a. not more than three persons for the time being designated in that behalf by the King, acting in accordance with the advice of the Council of State;
  - b. not more than six persons who are for the time being designated in that behalf by a Minister or Ministers specified by the Prime Minister and who possess such professional qualifications as, in the opinion of the relevant Minister, will enable them to make a special contribution to the work of the Board;
  - c. not more than three persons for the time being designated in that behalf by such organisations representative of local government authorities as may be so designated by the Minister for the time being responsible for local government;
  - d. not more than three persons for the time being designated in that behalf by such organisations representative of the private sector as may be so appointed by the Minister for the time being responsible for trade and industry; and
  - e. not more than three persons for the time being designated in that behalf by livestock farmers and other agro-allied associations.
2. The functions of the National Advisory Planning Board shall be,
  - a. to advise the Minister responsible for development planning on -
    - i. issues relating to the planning and budgeting systems;
    - ii. the alignment of the medium-term expenditure framework approach with strategic planning documents;
    - iii. the integration of district planning activities in the national planning system; and
    - iv. the preparation of guidelines for planning activities;
  - b. to review progress -
    - i. towards achievement of targets, goals and objectives of the national vision and provide advice on the procedures to be followed in the periodic updating of the national vision; and
    - ii. on the inclusion of poverty reduction priorities in the planning and budgetary system.
3. Parliament may make provision for the purpose of giving effect to the provisions of this section and in particular may make provision in respect of the following:--
  - a. the election of Chairman;
  - b. the term of office of members of the National Advisory Planning Board; and
  - c. the procedure of the National Advisory Planning Board.
4. The National Advisory Planning Board shall -
  - a. prior to each financial year, submit an annual work-plan and budget to the Minister responsible for development planning; and
  - b. at the end of each financial year, submit an annual report on the activities of the Board to the Minister responsible for development planning shall table the report before Cabinet and Parliament.
5. The Minister responsible for finance and development planning shall table the report before Cabinet and Parliament.

- Municipal government

## 106. Local authorities

1. Parliament shall establish such local authorities as it deems necessary to enable urban and rural communities to determine their affairs and to develop themselves. Such authorities shall perform such functions as may be conferred by an Act of Parliament.

2. Any enactment which provides for the establishment of a local authority and in force immediately before the coming into operation of this Constitution shall continue in force subject to repeal or modification by Parliament.

## CHAPTER IX. LAND

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- Ownership of natural resources

### 107. Land vested in Basotho Nation

Without prejudice to any allocation of land that was made before the commencement of this Constitution and was subsisting immediately before such commencement or to any interests or rights in or over land that were otherwise vested in any person immediately before such commencement and without prejudice to any allocation of land or any grant of any interest or right in or over land that may, in accordance with the provisions of this Constitution and, subject thereto, of any other law, be made after the commencement of this Constitution, all land in Lesotho is vested in the Basotho Nation.

- Head of state powers

### 108. Power to allocate land, etc. vested in the King in trust for Basotho Nation

1. The power to allocate land that is vested in the Basotho Nation, to make grants of interests or rights in or over such land, to revoke or derogate from any allocation or grant that has been made or otherwise to terminate or restrict any interest or right that has been granted is vested in the King in trust for the Basotho Nation.
2. The power that is vested in the King by subsection (1) of this section shall be exercised in accordance with this Constitution and any other law.

### 109. Laws regulating principles on which land may be allocated, etc

Parliament may make provision prescribing the allocations that may be made and the interests or rights that may be granted in exercise of the power conferred by section 108 of this Constitution, the grounds upon which and the circumstances in which such allocations or grants may or shall be so made or may or shall be revoked or derogated from or the interests or rights which may or shall otherwise be so terminated or restricted, appeals in respect of the allocation or refusal to allocate land or the revocation of interests to or in land and, generally, regulating the principles according to which and the manner in which the said power shall be exercised.

## CHAPTER X. FINANCE

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### 110. THE Consolidated Fund

There is the Consolidated Fund into which all revenues or other moneys raised or received for the purposes of the Government of Lesotho shall be paid, except money that -

- a. is reasonably excluded from the Fund by an Act of Parliament and payable into another public fund established for a specific purpose; or
- b. may, under an Act of Parliament, be retained by a state organ that received it for the purpose of defraying the expenses of the state organ.

## 111. Withdrawals from THE Consolidated Fund and other public funds

1. Moneys shall be withdrawn from the Consolidated Fund only:
  - a. in accordance with an appropriation by an Act of Parliament; or
  - b. as a charge against the Fund as authorised by the Constitution or an Act of Parliament.
2. Notwithstanding subsection (1), moneys may be withdrawn from the Consolidated Fund only for purposes of Supplementary Budget and servicing of public debt.
3. Moneys shall not be received into, or withdrawn from, any public fund other than the Consolidated Fund unless the receipt or withdrawal of the moneys has been authorised by an Act of Parliament
4. Parliament may prescribe the manner in which -
  - a. receipts shall be channeled into; or
  - b. withdrawals may be made from, the Consolidated Fund or any other public fund.
5. The investment of moneys forming part of -
  - a. the Consolidated Fund; or
  - b. other public funds, shall be made in such a manner as may be provided for by this Constitution or under an Act of Parliament.
6. Notwithstanding the provisions of subsection (2), provision may be made by or under an Act of Parliament authorising withdrawals to be made from the Consolidated Fund, in such circumstances and to such extent as may be provided for by or under an Act of Parliament, for the purpose of making repayable advances.

- Budget bills
- Spending bills

## 112. Authorisation of expenditure from the Consolidated Fund by appropriation

1. The Minister responsible for finance shall cause to be prepared and laid before the Parliament in each financial year, estimates of the revenue and expenditure of Lesotho for the next financial year for approval.
2. When the estimates of expenditure, other than expenditure charged upon the Consolidated Fund by this Constitution or by any Act of Parliament, have been approved by Parliament, a Bill, to be known as an Appropriation Bill, shall be introduced to Parliament, providing for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums, under separate votes for the several heads of expenditure approved, for specified purposes.
3. If in respect of any financial year it is found -
  - a. that the amount appropriated by the Appropriation Act to any purpose is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act; or
  - b. that any moneys have been expended for any purpose in excess of the amount appropriated to that purpose by the Appropriation Act or for a purpose to which no amount has been appropriated by that Act, a supplementary estimate or, as the case may be, a statement of excess showing the sums required or spent, shall be laid before the Parliament.
4. When a supplementary estimate or statement of excess has been approved by Parliament, a supplementary Appropriation Bill shall be introduced in Parliament, providing for the issue of such sums from the Consolidated Fund and appropriating them for specified purposes.
5. The supplementary estimates referred to in subsection (4) shall not exceed twenty percent of the approved annual budget.
6. Notwithstanding subsection (5), the supplementary estimates may exceed twenty percent during emergencies, disasters and unforeseen emergencies requiring supplementary estimates.
7. The use of the requested supplementary funds shall not exceed one-fifth of the total supplementary budget that is being requested prior to being approved by Parliament.

- Emergency provisions

## 113. Contingencies Fund

1. Parliament may make provision for the establishment of a Contingencies Fund and for authorising the Minister responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund to meet that need.
2. Where any advance is made from the Contingencies Fund, supplementary estimates shall be prepared and a supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.
3. The use of the Contingencies Fund shall be regulated by an Act of Parliament.

## 114. Remuneration of certain officers

1. There shall be paid to the holders of the offices specified in Schedule 4 to this Constitution, such salaries and allowances as may be provided for in an Act of Parliament.
2. Nothing in this section shall be construed as prejudicing the provisions of section 150 of this Constitution.

• Finance bills

## 115. Public debt

1. The following conditions shall be met before the Government concludes any agreement which may impact on the country's sovereign debt position:
  - a. proposed borrowing shall emanate from the Minister responsible for finance;
  - b. the Minister responsible for finance shall, before the commencement of a financial year, prepare an annual borrowing plan that shall be presented with the annual budget of Government for approval by Parliament; and
  - c. notwithstanding paragraph (b), the Minister may propose a loan for approval by Parliament following budget approval.
2. Debt charges for which Lesotho is liable shall be a charge on the Consolidated Fund.
3. For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortisation of debt and expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created.
4. Other conditions for the public debt not referred to in this section shall be provided for by an Act of Parliament.

## 116. Supreme Audit Institution

1. There shall be the Supreme Audit Institution, which shall -
  - a. be independent and autonomous; and
  - b. not be subject to the direction or control of any person or authority in the performance of its functions.
2. The main function of the Supreme Audit Institution, is to ensure public accountability and transparency, by ensuring that -
  - a. Government receipts have been included in
    - i. the Consolidated Fund and other funds established by this Constitution or an Act of Parliament; and
    - ii. Government entities and revenues retained by the authority that received them for the purpose of defraying the expenses of that authority;
  - b. expenditures charged to the Consolidated Fund and other funds as authorized by this Constitution or by an Act of Parliament have been properly accounted for; and
  - c. public assets and liabilities are accounted for including public assets on acquisition, maintenance, management and disposal.
3. The Supreme Audit Institution shall be accountable and report to Parliament.

- Legislative committees

4. The Speaker of the National Assembly shall designate a Parliamentary Committee which shall:
  - a. approve the budget of the Supreme Audit Institution before it is tabled in Parliament;
  - b. examine the Annual Performance Report of the Supreme Audit Institution before it is tabled in Parliament; and
  - c. appoint an auditor to audit the accounts of the Supreme Audit Institution

## 117. Disqualification for appointment

1. A person shall not qualify to be appointed as Auditor-General, if the person
  - a. is over fifty-five years of age;
  - b. is a member of Parliament, a local authority, a candidate for election to Parliament or an officer of a political party;
  - c. has held the office of Auditor-General; or
  - d. is declared insolvent.
2. A person shall not be appointed as the Auditor-General unless the person -
  - a. is of high moral character, integrity and possesses personal qualities and attributes that would enable the person to discharge the functions of the Supreme Audit Institution impartially, fairly and free from bias or prejudice;
  - b. does not take an active part in party politics; and
  - c. has the relevant professional qualifications, experience and leadership skills as may be specified by an Act of Parliament and is also a member of the national regulatory body at a professional level.

- Central bank

### 117A. Establishment of the Central Bank of Lesotho

1. There is established the Central Bank of Lesotho, which shall-
  - a. be a body corporate with perpetual succession;
  - b. be capable of suing and being sued in its corporate name; and
  - c. have powers to hold or dispose of property in the exercise of its functions.
2. The powers and functions of the Central Bank of Lesotho shall be provided for by an Act of Parliament.

### 117B. Salaries and Remunerations Commission

1. There shall be a Salaries and Remunerations Commission.
2. The powers and functions of the Salaries and Remunerations Commission shall be provided for by an Act of Parliament.

## CHAPTER XI. THE JUDICATURE

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### Part 1. The Judiciary

- Structure of the courts

#### 118. The Judiciary

1. The judicial power shall be vested in the courts of Lesotho which shall consist of--
  - a. a Court of Appeal;
  - b. a High Court;
  - c. Subordinate Courts and Courts-martial;
  - d. such tribunals exercising a judicial function as may be established by Parliament.
2. The courts shall, in the performance of their functions under this Constitution or any other law, be independent and free from interference and subject only to this Constitution and any other law.
3. The Government shall accord such assistance as the courts may require to enable them to protect their independence, dignity and effectiveness, subject to

- Right to appeal judicial decisions

- Establishment of military courts

- Judicial independence

3. this Constitution and any other law.

## Part 2. The High Court

- Structure of the courts

### 119. Establishment of High Court

1. There shall be a High Court which shall have unlimited original jurisdiction to hear and determine any civil or criminal proceedings and the power to review the decisions or proceedings of any subordinate or inferior court, court-martial, tribunal, board or officer exercising judicial, quasi-judicial or public administrative functions under any law and such jurisdiction and powers as may be conferred on it by this Constitution or by or under any other law.
2. The judges of the High Court shall be the Chief Justice and such number, of other judges (hereinafter referred to as "the puisne judges") as may be prescribed by Parliament:

- Number of supreme court judges

Provided that the office of a puisne judge shall not be abolished while there is a substantive holder thereof.

3. The High Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.
4. The High Court shall sit in such places as the Chief Justice may appoint.

### 120. Appointment of judges of High Court

1. The Chief Justice shall be appointed by the King acting in accordance with the advice of the Prime Minister.
2. The puisne judges shall be appointed by the King, acting in accordance with the advice of the Judicial Service Commission.

- Ordinary court selection

- Establishment of judicial council
- Ordinary court selection

- Eligibility for ordinary court judges

3

a. A person shall not be qualified to be appointed as a judge of the High Court unless--

i. he holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament or a court having jurisdiction in appeals from such a court; or

ii. he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

b. In this subsection "the specified qualifications" means the professional qualifications specified by the Legal Practitioners Act 1983, or by or under any law amending or replacing that Act, one of which must be held by any person before he may apply under that Act, or under any such law, to be admitted as a legal practitioner in Lesotho.

4. If the office of Chief Justice is vacant or the Chief Justice is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such one of the judges of the Court of Appeal or the puisne judges or such other person qualified to be appointed as a judge of the High Court as the King, acting in accordance with the advice of the Prime Minister, may appoint. Before rendering advice to the King for the purposes of this subsection the Prime Minister shall consult the Chief Justice if he is available:

Provided that--

a. a person may be appointed under this subsection notwithstanding that he has attained the age prescribed for the purposes of section 121(1) of this

4. a. Constitution; and
  - b. a person appointed under this subsection may, notwithstanding the assumption or resumption of the functions of the office of Chief Justice by the holder of that office, continue to act as Chief Justice for so long thereafter and to such extent as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him previously thereto.

- Establishment of judicial council

5. If the office of any puisne judge is vacant or if any such judge is appointed to act as Chief Justice or is for any reason unable to perform the functions of his office or if the Chief Justice advises the King that the state of business in the High Court so requires, the King, acting in accordance with the advice of the Judicial Service Commission, may appoint a person who is qualified to be appointed as a judge of the High Court to act as a puisne judge of that Court:

Provided that a person may act as a judge notwithstanding that he has attained the age prescribed for the purposes of section 121(1) of this Constitution.

- Establishment of judicial council

6. Any person appointed under subsection (5) to act as a puisne judge shall, subject to the provisions of section 121(7) of this Constitution, continue to act as judge for the period of his appointment or, if no such period is specified, until his appointment is revoked by the King, acting in accordance with the advice of the Judicial Service Commission:

Provided that, notwithstanding the expiration of the period of his appointment or the revocation of his appointment, he may thereafter continue to act as a puisne judge for so long as necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him previously thereto.

## 121. Tenure of office of Chief Justice and other judges of High Court

- Mandatory retirement age for judges

1. Subject to the provisions of this section, a person holding the office of Chief Justice or other judge of the High Court shall vacate that office when he attains the prescribed age.

- Ordinary court term length

2. Notwithstanding that he has attained the age prescribed for the purposes of subsection (1), a person holding the office of Chief Justice or other judge of the High Court may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

- Supreme/ordinary court judge removal

3. The Chief Justice and any other judge of the High Court may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

- Supreme/ordinary court judge removal

4. The Chief Justice and any other judge of the High Court shall be removed from office by the King if the question of his removal has been referred by the King to a tribunal appointed under subsection (5) and the tribunal has advised the King that the Chief Justice or the judge ought to be removed from office for inability as aforesaid or for misbehaviour.

- Supreme/ordinary court judge removal

5. If the Prime Minister or, in the case of a puisne judge, the Chief Justice represents to the King that the question of removing a judge under this section ought to be investigated, then-
  - a. the King shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected in accordance with the provisions of subsection (6) from among persons who hold or have held high judicial office; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the King and advise the King on what action is to be taken in relation to the Chief Justice or other judge.

- Supreme/ordinary court judge removal

6. When the question of removing the Chief Justice is to be investigated the members of the tribunal shall be selected by the Prime Minister, and when the question of removing a puisne judge is to be investigated they shall be selected by the Chief Justice.

- Supreme/ordinary court judge removal

7. If the question of removing the Chief Justice or a judge from office has been referred to a tribunal under subsection (5), the King, acting in accordance with

7. the advice of the Prime Minister in the case of the Chief Justice and acting in accordance with the advice of the Chief Justice in the case of a puisne judge, may suspend the Chief Justice, or as the case may be, the judge, from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal advises the King that the Chief Justice or the judge should not be removed from office.

- Mandatory retirement age for judges

8. The prescribed age for the purposes of subsection (1) is the age of seventy-five years or such other age as may be prescribed by Parliament:

Provided that an Act of Parliament, to the extent to which it alters the prescribed age after the appointment of a person to be Chief Justice or judge of the High Court, shall not have effect in relation to that person unless he consents that it should have effect.

## 122. Oath by judges of High Court

Before entering upon the duties of his office, the Chief Justice and a puisne judge shall take and subscribe such oath for the due execution of his office as may be prescribed by Parliament.

## Part 3. The Court of Appeal

- Structure of the courts
- Right to appeal judicial decisions

### 123. Establishment of Court of Appeal

1. There shall be for Lesotho a Court of Appeal which shall have such jurisdiction and powers as may be conferred on it by this Constitution or any other law.
2. The judges of the Court of Appeal shall be--
  - a. the President;
  - b. such number of Justices of Appeal as may be prescribed by Parliament;
  - and
  - c. the Chief Justice and the puisne judges of the High Court ex officio.
3. The office of a Justice of Appeal shall not be abolished while there is a substantive holder thereof.
4. The Court of Appeal shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.
5. The Court may, in accordance with any directions issued from time to time by the President, sit in Lesotho or elsewhere to dispose of any matter in relation to an appeal, not involving the decision of the appeal, and such matter may be disposed of by a single judge.

### 124. Appointment of judges of Court of Appeal

- Supreme court selection
- Supreme court selection
- Establishment of judicial council

1. The President shall be appointed by the King on the advice of the Prime Minister.
2. The Justices of Appeal shall be appointed by the King, acting in accordance with the advice of the Judicial Service Commission after consultation with the President.

- Eligibility for supreme court judges

3

a. A person shall not be qualified to be appointed as a Justice of Appeal unless--

i. he holds or has held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament or a court having jurisdiction in appeals from such a court; or

ii. he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than seven years.

b. In this subsection "the specified qualifications" means the professional qualifications specified by the Legal Practitioners Act 1983, or by or under any law amending or replacing that Act, one of which must be held by any person before he may apply under that Act, or under any such law to be admitted as a legal practitioner in Lesotho.

4. If the office of President is vacant or the President is for any reason unable to exercise the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, they shall be exercised by such one of the judges of the Court of Appeal or such other person qualified to be appointed as a judge of the Court of Appeal as the King, acting in accordance with the advice of the Prime Minister, may appoint. Before tendering advice to the King for the purposes of this subsection, the Prime Minister shall consult the President if he is available:

Provided that:

a. a person may be appointed under this subsection notwithstanding that he has attained the age prescribed for the purposes of section 125(1) of this Constitution; and

b. a person appointed under this subsection may, notwithstanding the assumption or resumption of the functions of the office of President by the holder of that office, continue to act as President for so long thereafter and to such extent as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him previously thereto.

5. If the office of a Justice of Appeal is vacant or if any such Justice of Appeal is appointed to act as President or is for any reason unable to perform the functions of his office, or if the President advises the King that the state of business in the Court of Appeal so requires, the King, acting in accordance with the advice of the Judicial Service Commission after consultation with the President, may appoint a person who is qualified to be appointed as a Justice of Appeal to act as a Justice of Appeal:

Provided that a person may act as a Justice of Appeal notwithstanding that he has attained the age prescribed for the purposes of section 125(1) of this Constitution.

6. Any person appointed under subsection (5) to act as a Justice of Appeal shall, subject to the provisions of section 125(7) of this Constitution, continue to act for the period of his appointment or, if no such period is specified, until his appointment is revoked by the King, acting in accordance with the advice of the Judicial Service Commission after consultation with the President:

Provided that, notwithstanding the expiration of the period of his appointment or the revocation of his appointment, he may thereafter continue to act as a Justice of Appeal for so long as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him previously thereto.

## 125. Tenure of office of appointed judges of Court of Appeal

1. Subject to the provisions of this section, a person holding the office of an appointed judge of the Court of Appeal shall vacate that office when he attains the prescribed age.
2. Notwithstanding that he has attained the age prescribed for the purposes of subsection (1), an appointed judge may continue in office for so long after attaining that age as may be necessary to enable him to deliver judgement or to do any other thing in relation to proceedings that were commenced before him before he attained that age.
3. An appointed judge may be removed from office only for inability to perform the functions of his office (whether arising from infirmity of body or mind or any other

• Establishment of judicial council

• Establishment of judicial council

• Mandatory retirement age for judges

• Supreme court term length

• Supreme/ordinary court judge removal

• Supreme/ordinary court judge removal

3. cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

4. An appointed judge shall be removed from office by the King if the question of his removal has been referred by the King to a tribunal appointed under subsection (5) and the tribunal has advised the King that the appointed judge ought to be removed from office for inability as aforesaid or for misbehaviour.

• Supreme/ordinary court judge removal

5. If the Prime Minister or, in the case of a Justice of Appeal, the President represents to the King that the question of removing an appointed judge under this section ought to be investigated, then--

a. the King shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected in accordance with the provisions of subsection (6) from among persons who hold or have held high judicial office;

b. the tribunal shall enquire into the matter and report on the facts thereof to the King and advise the King whether the appointed judge ought to be removed from office under this section for inability as aforesaid or for misbehaviour.

• Supreme/ordinary court judge removal

6. When the question of removing the President is to be investigated, the members of the tribunal shall be selected by the Prime Minister and, when the question of removing a Justice of Appeal is to be investigated, the members of the tribunal shall be selected by the President.

• Supreme/ordinary court judge removal

7. If the question of removing an appointed judge from office has been referred to a tribunal under subsection (5), the King, acting in accordance with the advice of the Prime Minister in the case of the President and in accordance with the advice of the President in the case of Justice of Appeal, may suspend the appointed judge from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal advises the King that the appointed judge should not be removed from office.

• Mandatory retirement age for judges

8. The prescribed age for the purposes of subsection (1) is the age of seventy-five years or such other age as may be prescribed by Parliament:

Provided that--

a. a person may be appointed as Justice of Appeal for a fixed period of three years notwithstanding that he has attained the age referred to in this subsection or that he will before the expiry of his appointment have attained that age; and

b. an Act of Parliament, to the extent to which it alters the prescribed age after the appointment of a person to be a Justice of Appeal, shall not have effect in relation to that person unless he consents that it should have effect.

9. In this section and section 126 the expression "appointed judge of the Court of Appeal" and the expression "appointed judge" mean a person appointed under section 124(1) or, as the case may be, section 124(2) of this Constitution.

## 126. Oath by judges of Court of Appeal

Before entering upon the duties of his office, an appointed judge of the Court of Appeal shall take and subscribe such oath for the due execution of his office as may be prescribed by Parliament.

## Part 4. Subordinate Courts, Courts-Martial and Tribunals

• Structure of the courts

### 127. Establishment of other courts and Tribunals

Parliament may establish courts subordinate to the High Court, courts-martial and tribunals, and any such court or tribunal shall, subject to the provisions of this Constitution, have such jurisdiction and powers as may be conferred on it by or under any law.

- Constitutional interpretation

## 128. Reference to High Court in cases in subordinate courts etc. involving interpretation of Constitution

1. Where any question as to the interpretation of this Constitution arises in any proceedings in any subordinate court or tribunal and the court or tribunal is of the opinion that the question involves a substantial question of law, the court or tribunal may, and shall, if any party to the proceedings so requests, refer the question to the High Court.
2. Where any question is referred to the High Court in pursuance of this section, the High Court shall give its decision upon the question and the court or tribunal in which the question arose shall dispose of the case in accordance with that decision or, if that decision is the subject of an appeal under section 129 of this Constitution, in accordance with the decision of the Court of Appeal.

## Part 5. Appeals and Rules

- Right to appeal judicial decisions
- Constitutional interpretation

### 129. Appeals to the Court of Appeal

1. In addition to the right of appeal accorded by section 47 of this Constitution, an appeal shall lie as of right to the Court of Appeal from decisions of the High Court in the following cases, that is to say:
  - a. subject to section 69 of this Constitution, final decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution, including any such decision made on a reference to the High Court under section 128;
  - b. final decisions of the High Court in the determination of any question in respect of which a right of access to the High Court is guaranteed by section 17 of this Constitution and final decisions of the High Court under section 22 of this Constitution.
2. Subject to section 69 of this Constitution, the Court of Appeal shall have such other jurisdiction with regard to appeals as shall be determined by Parliament.
3. The Court of Appeal shall, when determining any matter other than an interlocutory matter, be composed of an uneven number of judges, not being less than three.

- Right to appeal judicial decisions

### 130. Appeals to the High Court

In addition to the supervisory jurisdiction and jurisdiction on a reference conferred on the High Court by this Constitution, the High Court shall have such jurisdiction with regard to appeals from decisions of any subordinate court, court-martial or tribunal as may be conferred by Parliament.

### 131. Rules of Court

Without prejudice to any other provision of this Constitution for the making of rules regulating the practice and procedure of any court--

- a. the Chief Justice may make rules for regulating the practice and procedure of the High Court; and
- b. the President may make rules for regulating the practice and procedure of the Court of Appeal in relation to appeals to the Court (including the practice and procedure of any court from which such appeals are brought) whether before or after final judgement in the Court of Appeal:

Provided that no rule which may involve an increase in the expenses of a court shall be made except with the concurrence of the Minister for the time being responsible for finance, but the validity of a rule shall not in any proceedings in any court be called in question either by the court or by any party to the proceedings on the ground only that it was a rule in which the concurrence of the Minister was necessary and that he did not concur or is not expressed to have concurred in the making thereof.

- Establishment of judicial council

## Part 6. Judicial Service Commission

### 132. Judicial Service Commission

1. There shall be a Judicial Service Commission which shall consist of--
  - a. the Chief Justice, as Chairman;
  - b. the Attorney-General;
  - c. the Chairman of the Public Service Commission or some other member of that Commission designated by the Chairman thereof; and
  - d. a member appointed from amongst persons who hold or have held high judicial office who shall be appointed by the King acting in accordance with the advice of the Chief Justice and is hereinafter referred to as the appointed member.
2. Subject to the provisions of this section, the office of the appointed member of the Commission shall become vacant at the expiration of five years from the date of his appointment.
3. The appointed member of the Commission may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.
4. The appointed member of the Commission shall be removed from office by the King if the question of his removal from office has been referred to a tribunal appointed under subsection (5) and the tribunal has recommended to the King that he ought to be removed from office for inability as aforesaid or for misbehaviour.
5. If the Chairman of the Commission represents to the King that the question of removing the appointed member of the Commission under this section ought to be investigated, then--
  - a. the King shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the Chairman of the Commission from among persons who hold or have held high judicial office; and
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the King and recommend to him whether the appointed member ought to be removed under this section.
6. If the question of removing the appointed member of the Commission has been referred to a tribunal under this section, the King, acting in accordance with the advice of the Chairman of the Commission, may suspend that member from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with such advice as aforesaid and shall in any case cease to have effect if the tribunal recommends to the King that member should not be removed.
7. If the office of the appointed member of the Commission is vacant or if the person holding that office is for any reason unable to exercise the functions of his office, the King, acting in accordance with the advice of the Chief Justice, may appoint a person who is qualified to be the appointed member to act as that member, and any person so appointed shall, subject to the provisions of subsection (2), continue to act until the office in which he is acting is filled or, as the case may be, until the holder thereof resumes his functions or until his appointment to act is revoked by the King acting in accordance with the advice of the Chief Justice.
8. In the exercise of its functions under this Constitution, the Commission shall not be subject to the direction or control of any other person or authority.
9. The Commission may by regulation or otherwise regulate its own procedure and, with the consent of the Prime Minister, may confer powers or impose duties on any public officer or on any authority of the Government of Lesotho for the purpose of the discharge of its functions.
10. The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person not entitled to be present at or to participate in those proceedings:

10. Provided that any decision of the Commission shall require the concurrence of a majority of all the members thereof.
11. The Secretary to the Commission shall be the Registrar of the High Court.

### **133. Appointment, etc. of judicial officers**

1. The power to appoint persons to hold or act in any offices to which this section applies (including the power to confirm appointments), the power to exercise disciplinary control over persons holding or acting in such offices and the power to remove such persons from office shall vest in the Judicial Service Commission.
2. The Judicial Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) to any one or more of its members or to any judge of the High Court or to any person holding or acting in an office to which this section applies.
3. The offices to which this section applies are--
  - a. the office of Registrar or Assistant Registrar of the High Court or Registrar or Assistant Registrar of the Court of Appeal;
  - b. the office of magistrate;
  - c. the office of member of any subordinate court; or
  - d. such other offices connected with any court as may be prescribed by or under an Act of Parliament.
4. Save in so far as Parliament otherwise provides, references in this section to a member of any court shall not be construed as including references to an assessor whose functions are advisory or consultative only.
5. In this section references to a court do not include references to a court-martial or tribunal.

- Human rights commission

## **CHAPTER XIA. the HUMAN RIGHTS COMMISSION**

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### **133A. Establishment of the Human Rights Commission**

1. There is established a Human Rights Commission, which shall be a body corporate with perpetual succession capable of suing and being sued in its own name and of performing acts as are necessary for, or incidental to, the execution of its functions.
2. The Commission shall be independent and free from interference from any person or any authority and subject only to this Constitution and an Act of Parliament.
3. The Commission shall be impartial and shall exercise its powers and perform its functions without fear, favour, or prejudice.
4. The Commission shall be accountable to Parliament through the relevant Portfolio Committee.

### **133B. Composition and appointment of the Commission**

1. The Commission shall consist of seven members who shall be the Chairperson, the Deputy Chairperson and five ordinary members with expertise and experience in human rights.
2. The composition of the Commission shall, as far as possible, be representative of a broad cross-section of society such as women, people with disabilities, youth and other marginalised groups.
3. Members of the Commission shall be appointed by the King on the advice of the Prime Minister from a list of three names submitted by Parliament through a fair, competitive, merit based and transparent process as provided for by an Act of Parliament.

4. Members of the Commission shall be appointed for a non-renewable term of seven years.

### 133C. Functions of the Commission

The functions of the Commission shall be to-

- a. promote and protect human rights and freedoms;
- b. monitor the state of human rights and freedoms throughout Lesotho;
- c. investigate alleged human rights violations and take steps to secure appropriate redress where human rights have been violated;
- d. promote and ensure the harmonisation of national legislation, regulations, and practices with the international human rights instruments to which Lesotho is a party, and their effective implementation;
- e. monitor the implementation of international human rights conventions that Lesotho has ratified;
- f. report on the performance of its functions to the Parliament at least once a year; and
- g. perform such other functions as may be provided for by an Act of Parliament.

• International law

### 133D. DISQualification for appointment

1. A person shall not qualify to be appointed a member of the Commission if he or she is-
  - a. a public officer;
  - b. a member of either House of Parliament, a local authority, a candidate for election to Parliament or an officer of a political party; or
  - c. declared insolvent.
2. The Prime Minister shall not advise the King to appoint a person as a member of the Commission unless he is satisfied that the person-
  - a. has extensive experience in human rights and related disciplines;
  - b. is of high moral character, integrity, and possesses personal qualities and attributes that would enable him or her to discharge his or her duties impartially, fairly, and free from bias or prejudice; and
  - c. has not taken an active part in, or has retired from, party politics for a period of at least two years.

### 133E. Tenure of office

1. Subject to the provisions of this section, the office of a member of the Commission shall become vacant-
  - a. at the expiration of five years in case of the Chairperson and three years in the case of the other members;
  - b. if he or she becomes a public officer or resigns from office;
  - c. if he or she becomes a member of either House of Parliament, a local authority, a candidate for election to Parliament, or an officer of a political party;
  - d. if any circumstances arise that, if he or she were not a member of the Commission, would cause him or her to be disqualified from appointment as provided in section 133D; or
  - e. if he or she dies.
2. If the office of a member of the Commission becomes vacant before the expiration of a term of office, whether by death, resignation or otherwise, the vacancy shall be filled in accordance with the manner in which the member was appointed.
3. A member of the Commission appointed under subsection (2) shall hold office for the remainder of the term of the vacating member of the Commission.

- Ombudsman

## CHAPTER XII. THE OMBUDSMAN

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### 134. The Ombudsman

1. There shall be an Ombudsman who shall be appointed, subject to the provisions of subsection (2), by the King acting in accordance with the advice of the Prime Minister for a term not exceeding four years.
2. A person holding the office of Ombudsman may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be removed except in accordance with the provisions of subsection (3).
3. Section 142(5) to (7) shall apply to the office of Ombudsman as it applies to the Supreme Audit Institution.

### 135. Functions of Ombudsman

1. The Ombudsman may--
  - a. investigate action taken by any officer or authority referred to in subsection (2) in the exercise of the administrative functions of that officer or authority in cases where it is alleged that a person has suffered injustice in consequence of that action; and
  - b. perform such other duties and exercise such other powers as may be conferred on him by an Act of Parliament.
2. Subject to such exceptions and conditions as may be prescribed by Parliament, the provisions of subsection (1)(a) shall apply in respect of any action taken by the following officers and authorities:
  - a. any department of government or any member of such a department;
  - b. any local government authority and the members and officers of a local government authority;
  - c. any statutory corporation and the members and persons in the service of a statutory corporation.
3. The Ombudsman shall make a written report of every investigation undertaken by him which--
  - a. shall include a statement of the action if any, taken by the officer or authority concerned as a consequence of such investigation; and
  - b. may include a recommendation as to what remedial action, including the payment of compensation, should be taken,

and the Ombudsman shall submit annually to Parliament a summary of such reports.

4. In the exercise of his functions under this section, the Ombudsman shall not be subject to the directions or control of any other person or authority.
5. Parliament may make provision for the exercise of the functions of the Ombudsman (including the circumstances in which, and the times within which, a complaint may be made to the Ombudsman) and, without prejudice to the generality of the foregoing, the officers and authorities whose actions are not subject to investigation by him.

- Counter corruption commission

## CHAPTER XIIA: Lesotho Independent Anti-Corruption and Ethics Commission

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## **135F. Establishment of the Lesotho Independent Anti-Corruption and Ethics Commission**

1. There is continued in existence the Directorate on Corruption and Economic Offences which shall be known as the Lesotho Independent Anti-Corruption and Ethics Commission (in this Part to be called "the Commission").
2. The Commission shall be a body corporate with perpetual succession capable of suing and being sued in its own name and of performing acts as are necessary for, or incidental to, the execution of its functions.
3. The Commission shall be-
  - a. independent and free from interference from any person or any authority and subject only to this Constitution and an Act of Parliament;
  - b. impartial and exercise its powers and perform its functions without fear, favour or prejudice; and
  - c. accountable to Parliament through the relevant Portfolio Committee.

## **135G. Composition and appointment of the Commission**

1. The Commission shall consist of a Chairperson and four other members.
2. The Director General shall be the Secretary of the Commission.
3. The terms and conditions of employment of the Commissioners shall be provided for by an Act of Parliament.

## **135H. The Secretariat of the Commission**

1. There shall be the staff of the Commission which shall consist of the Secretariat of the Commission, and shall be appointed by the Commission in accordance with an Act of Parliament.
2. The Director General shall be the Head of the Secretariat and Chief Accounting Officer of the Commission.
3. The terms and conditions of staff shall be provided for by an Act of Parliament.

# **CHAPTER XIII. THE PUBLIC SERVICE**

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## **136. Public Service**

1. There shall be established the Public Service.
2. The functions of the Public Service shall be as provided for by an Act of Parliament.

## **136A. Establishment and Appointment of the Public Service Commission**

1. There shall be a Public Service Commission which shall consist of the following five members to be appointed on a full-time basis:
  - a. a Chairperson; and
  - b. four other members.
2. The appointment of members of the Commission shall be published by notice in the Gazette.
3. The Commission shall, in the exercise of its functions under this Constitution or any other law, not be subject to the direction or control of any person or

3. authority.

## 137. Appointment, etc. of public officers

1. Subject to the provisions of this Constitution, the power to appoint persons to hold or act in offices in the public service (including the power to confirm appointments), and the power to terminate appointments of such persons, save the power to discipline and terminate the appointment of such persons for disciplinary reasons, is vested in the Public Service Commission.
2. Subject to the provisions of this Chapter, the Public Service Commission may, by directions in writing and subject to such conditions as it thinks fit, delegate any of its powers under subsection (1) to any one or more members of the Commission or, with the consent of the Prime Minister, to any public officer.
3. The provisions of this section shall not apply in relation to the following offices, that is to say--
  - a. the office of a judge of the Court of Appeal or of the High Court, the office of the Attorney-General, the Supreme Audit Institution and the office of Ombudsman;
  - b. [deleted by Act No. 7 of 1997]
  - c. except in relation to appointments thereto or to act therein, the office of Director of Public Prosecutions;
  - d. so far only as concerns appointments thereto or to act therein, the office of Principal Secretary, and the office of Government Secretary;
  - e. any office to which section 133 of this Constitution (which relates to offices within the jurisdiction of the Judicial Service Commission) applies;
  - f. any office the power to make appointments to which is vested in a Teaching Service Commission established in accordance with section 144 of this Constitution;
  - g. the office of Ambassador, High Commissioner or other principal representative of Lesotho in any other country; and
  - h. the office of Commander of the Defence Force and offices of members of the Defence Force, the office of Commissioner of Police and offices of members of the Police Force, the office of the Director of the National Security Service and offices of members of the National Security Service, and the office of Director of Prisons and offices of members of the Prison Service.
4. No person shall be appointed under this section to or to act in any office on the King's personal staff except with the concurrence of the King.
5. Before any of the powers conferred by this section in relation to the Clerk of a House of Parliament or a member of his staff are exercised by the Public Service Commission or any other person or authority, the Commission or that person or authority shall consult with the President or Speaker of that House.
6. Before the Public Service Commission or any other person or authority exercises its powers under this section to appoint to or to act in any public office any person who holds or is acting in any office the power to make appointments to which is vested by or under this Constitution in the Judicial Service Commission or the Teaching Service Commission, the Public Service Commission or that person or authority shall consult with the Judicial Service Commission or the Teaching Service Commission, as the case may be.
7. A public officer shall not be removed from office or subjected to any other punishment under this section on the grounds of any act done or omitted by him

7. in the exercise of a judicial function conferred on him unless the Judicial Service Commission concurs therein.

## 138. [Repealed by Act No. 7 of 1997]

## 139. Principal Secretaries and Government Secretary

1. The power to appoint a person to hold or act in any office to which this section applies shall vest in the Prime Minister, acting after consultation with the Public Service Commission:

Provided that the power to appoint a person to hold or act in any such office upon transfer from another such office carrying the same emoluments shall vest in the Prime Minister.

2. The offices to which this section applies are the office of any Principal Secretary and the office of the Government Secretary.

- Attorney general

## 140. Attorney-General

1. The power to appoint a person to hold or act in the office of Attorney-General shall vest in the King, acting in accordance with the advice of the Prime Minister.

2

- a. A person shall not be qualified to be appointed to hold or act in the office of Attorney-General unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.

- b. In this subsection "the specified qualifications" means the professional qualifications specified by the Legal Practitioners Act 1983 or by or under any law amending or replacing that Act, one of which must be held by any person before he may apply under that Act, or under any such law, to be admitted as a legal practitioner in Lesotho.

3. If the office of Attorney-General is vacant or if the Attorney-General is for any reason unable to exercise the functions of his office, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsections (4), (6) and (8), continue to act until a person has been appointed to the office of Attorney-General and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.

4. Subject to the provisions of subsection (6), the Attorney-General shall vacate his office when he attains the prescribed age.

5. A person holding the office of Attorney-General may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.

6. The Attorney-General shall be removed from office by the King if the question of his removal from office has been referred to a tribunal appointed under subsection (7) and the tribunal has recommended to the King that he ought to be removed for inability as aforesaid or for misbehaviour.

7. If the Prime Minister represents to the King that the question of removing the Attorney-General under this section ought to be investigated, then--

- a. the King shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held high judicial office; and

7.
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the King and recommend to him whether the Attorney-General ought to be removed under this section.
8. If the question of removing the Attorney-General has been referred to a tribunal under this section, the King, acting in accordance with the advice of the Prime Minister, may suspend the Attorney-General from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the King that the Attorney-General should not be removed.
9. The prescribed age for the purposes of subsection (4) is the age of fifty-five years or such other age as may be prescribed by Parliament:

Provided that an Act of Parliament, to the extent to which it alters the prescribed age after the appointment of a person to be or to act as Attorney-General, shall not have effect in relation to that person unless he consents that it should have effect.

- Attorney general

## 141. Director of Public Prosecutions

1

- a. A person shall not be qualified to be appointed to hold the office of Director of Public Prosecutions unless he holds one of the specified qualifications and has held one or other of those qualifications for a total period of not less than five years.
- b. In this subsection "the specified qualifications" means the professional qualifications specified by the Legal Practitioners Act 1983, or by or under any law amending or replacing that Act, one of which must be held by any person before he may apply under that Act, or under any such law, to be admitted as a legal practitioner in Lesotho.
2. If the office of Director of Public Prosecutions is vacant or if the Director of Public Prosecutions is for any reason unable to exercise the functions of his office, a person qualified for appointment to that office may be appointed to act therein, and any person so appointed shall, subject to the provisions of subsections (3), (5) and (7), continue to act until a person has been appointed to the office of Director of Public Prosecutions and has assumed the functions of that office or, as the case may be, until the person in whose place he is acting has resumed those functions.
3. Subject to the provisions of subsection (5), the Director of Public Prosecutions shall vacate his office when he attains the prescribed age.
4. A person holding the office of Director of Public Prosecutions may be removed from office only for inability to exercise the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour and shall not be so removed except in accordance with the provisions of this section.
5. The Director of Public Prosecutions shall be removed from office by the King if the question of his removal from office has been referred to a tribunal appointed under subsection (6) and the tribunal has recommended to the King that he ought to be removed for inability as aforesaid or for misbehaviour.
6. If the Prime Minister or the Chairman of the Public Service Commission represents to the King that the question of removing the Director of Public Prosecutions under this section ought to be investigated, then--
  - a. the King shall appoint a tribunal which shall consist of a Chairman and not less than two other members, selected by the Chief Justice from among persons who hold or have held high judicial office; and

6.
  - b. the tribunal shall enquire into the matter and report on the facts thereof to the King and recommend to him whether the Director of Public Prosecutions ought to be removed under this section.
7. If the question of removing the Director of Public Prosecutions has been referred to a tribunal under this section, the King, acting in accordance with the advice of the Public Service Commission, may suspend the Director of Public Prosecutions from the exercise of the functions of his office and any such suspension may at any time be revoked by the King, acting in accordance with such advice as aforesaid, and shall in any case cease to have effect if the tribunal recommends to the King that the Director of Public Prosecutions should not be removed.
8. The prescribed age for the purposes of subsection (3) is the age of fifty-five years or such other age as may be prescribed by Parliament:

Provided that an Act of Parliament, to the extent to which it alters the prescribed age after the appointment of a person to be or to act as Director of Public Prosecutions, shall not have effect in relation to that person unless he consents that it should have effect.

## 142. [Deleted by the Tenth Amendment to the Constitution Act, 2025]

### Foreign Service

- Foreign affairs representative

#### 143. Establishment

- International law

1. There shall be a Foreign Service which shall-
  - a. be a specialised professional service within the Public Service, responsible for foreign affairs and international relations; and
  - b. adhere to international law, and all applicable legal instruments to which Lesotho is a signatory and has ratified.
2. Regulation and administration of Foreign Service shall vest in the Minister responsible for foreign affairs and international relations as provided for by the Act of Parliament.

#### 143A. Composition

1. The Foreign Service shall consist of the following:
  - a. the Ministry Headquarters; and
  - b. Lesotho Diplomatic Missions and Consular Posts abroad including Heads of Missions, Heads of Consular Posts, diplomatic staff and consular officers.
2. The Foreign Service shall be based on a hybrid system consisting of-
  - a. professional career diplomats from the Ministry responsible for foreign affairs and international relations; and
  - b. attaches with specific expertise seconded or on special assignment from other Government ministries, agencies and parastatals.
3. Requirements for members of the Foreign Service shall be provided for by the Act of Parliament.

#### 143B. Appointment

- Head of state powers
- Head of government powers

1. Heads of Diplomatic Missions and Heads of Consular Posts shall be appointed-
  - a. by the King acting on the advice of the Prime Minister;
  - b. for a period of four years, which may be renewed for a further period of four years, upon satisfactory performance;
  - c. on appropriate contract terms if, at the time of appointment, they are not public officers;
2. The power to-
  - a. remove Heads of Diplomatic Missions and Heads of Consular Posts shall vest in the King, acting in accordance with the advice of the Prime

- Head of government powers
- Head of state powers

2.
  - a. Minister; and
  - b. discipline Heads of Diplomatic Missions and Heads of Consular Posts shall vest in the Principal Secretary responsible for foreign affairs and international relations.
3. Heads of Diplomatic Missions and Heads of Consular Posts shall have a performance contract with the Ministry responsible for foreign affairs and international relations, to ensure accountability of their performance while in Foreign Service.
4. Heads of Diplomatic Missions and Heads of Consular Posts shall administratively report to the Principal Secretary responsible for foreign affairs and international relations.
5. Appointment and recall of career diplomats and attaches to Foreign Service shall be provided for by an Act of Parliament.

#### 144. Teaching Service

1. There shall be a Teaching Service, the functions of which shall be as prescribed by an Act of Parliament.
2. There shall be a Teaching Service Commission, the composition, powers, duties and procedure of which shall be as prescribed by an Act of Parliament.

## Chapter XIII.A. NATIONAL SECURITY

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#### 145. National Security Institutions

1. There shall be the National Security Institutions which shall consist of-
  - a. the Lesotho Defence Force;
  - b. the Lesotho Mounted Police Service;
  - c. the National Intelligence Service; and
  - d. the Lesotho Correctional Service, which shall be the only lawful National Security Institutions in Lesotho.
2. The National Security Institutions shall be structured and regulated by Acts of Parliament.
3. Parliament may make provision for the registration and operation of private security companies, which shall conform to national laws.
4. Private military companies shall not be registered or allowed to operate in Lesotho.
5. Parliament shall exercise oversight of the National Security Agencies as may be provided for by an Act of Parliament.

#### 146. Principles governing the National Security Institutions

1. National Security shall be promoted and guaranteed in accordance with the following principles:
  - a. National Security Institutions shall be subject to civilian control as established by this Constitution and any other law;
  - b. National Security Institutions and their personnel shall be patriotic, competent, professional, and disciplined;
  - c. National Security Institutions shall be gender sensitive and inclusive.
2. In performing their functions and exercising their powers, the National Security Institutions and their members shall not-
  - a. act in a partisan manner;
  - b. further any interest of a political party or cause; or
  - c. prejudice a political interest or political cause that is legitimate under this Constitution.
3. A serving member of the National Security Institutions shall not-
  - a. take up any other employment without due authorisation;
  - b. obey or act upon a manifestly unlawful order;
  - c. associate with violent extremism, participate, or engage in any criminal activities;

• Restrictions on the armed forces

• Restrictions on the armed forces

3. d. engage in political activism and shall, as far as practicable, be protected from political interference by political parties and their members and supporters.
4. The recruitment, appointment, and promotion of candidates into the National Security Institutions shall be through a transparent, competitive, and impartial process based on merit and qualifications.
5. Only indigenous Basotho shall be eligible for recruitment into the National Security Institutions.

## 147. Development of National Security Policy

1. There shall be developed a National Security Policy (to be called "the Policy") to guide the Kingdom of Lesotho in addressing the security needs of the nation. The policy shall-
  - a. elaborate the main national security interests, core values, principles, priorities, legal basis and roles of key actors and institutions in the security sector;
  - b. provide for national security that reflects the protection of national strategic interests, protection against internal and external threats, respect for fundamental rights and freedoms, promotion of social cohesion, democratic values and principles enshrined in this Constitution, resolve of Basotho as individuals and as a nation to live as equals, free from fear, live in peace, liberty, harmony, and prosperity; and
  - c. provide for National Security Institutions that are answerable to the Basotho nation through the civilian authorities and complies with the law, including international law.
2. The policy framework and the necessary implementation strategy shall be developed under the guidance of the National Security Council, which shall oversee its dissemination and implementation.

- International law

- Advisory bodies to the head of state

## 148. National Security Council

1. There shall be a National Security Council (to be called "the Council" in this Part) which shall be the apex security structure that shall be responsible for the state of security in Lesotho.
2. The Council shall consist of-
  - a. the Prime Minister who shall be the Chairperson;
  - b. the Deputy Prime Minister;
  - c. Ministers responsible for national security institutions, international relations, and finance;
  - d. the Attorney General;
  - e. the Chief of Defence Staff;
  - f. the Chief of Lesotho Mounted Police Service;
  - g. the Director-General of National Security Service;
  - h. the Chief of Lesotho Correctional Service; and
  - i. the Government Secretary who shall be the Secretary to the Council and shall record proceedings but shall neither participate nor vote in the meetings of the Council.
3. The quorum of the Council shall be fifty percent plus one, including the Chairperson and subject thereto the Council may act notwithstanding any vacancy in its membership.
4. Meetings of the Council shall be summoned by the Prime Minister.
5. The Council may request any public officer or any other person holding or acting in any office established by or under this Constitution or any authority so established to assist it in the exercise of its functions, whether by way of attendance before the Council or otherwise and any such officer or authority shall comply with such request.

## 149. Functions of the Council

1. The functions of the Council shall be provided for by an Act of Parliament.
2. The Council shall determine its own rules of procedure for the execution of its functions except as may otherwise be provided for by an Act of Parliament.

## 149A. National Security Commission

1. There shall be a National Security Commission (to be called "the Commission" in this Part) which shall be appointed by the King, by notice published in the Gazette for the appointment and removal of security chiefs, on the advice of the National Security Council and which shall consist of-
  - a. two members from the National Assembly, one nominated from the government and one from the opposition and one member nominated from the Senate;
  - b. a member of the Judicial Service Commission nominated by the Judicial Service Commission;
  - c. a former Chief of Defence Staff;
  - d. a former Chief of Police;
  - e. a former Director-General of the National Intelligence Service;
  - f. a former Chief of the Lesotho Correctional Service; and
  - g. a Secretary who shall be appointed by the Commission through a transparent and competitive process but who shall neither participate nor vote in any meeting of the Commission.
2. Where there is no person to fill the membership referred to in subsection (1)(c), (d), (e) and (f) a former deputy may be appointed in accordance with this section.
3. Members of the Commission shall elect a Chairperson and Deputy Chairperson from among themselves, and the names of the elected persons shall be published in the Gazette by the Prime Minister.
4. Members of the Commission referred to under subsection (1), (c), (d), (e) and (f) shall be appointed on the basis of their general suitability for appointment through a fair and transparent process.
5. A member of the Commission shall hold office for three years, renewable once for a period not exceeding three years based on a good performance.
6. Meetings of the Commission shall be called by the Chairperson.
7. The quorum of the Commission shall be fifty percent plus one, and subject thereto the Commission may act notwithstanding any vacancy in its membership.
8. Decisions of the Commission shall be taken by a simple majority of the members present and voting and in the case of equality in votes, the Chairperson shall have a casting vote.
9. Parliament may make provision for further functions, procedures for appointment, tenure of office, and other related matters by an Act of Parliament.
10. Subject to the provisions of this section, the Commission may regulate its own procedures.

## 149B. Functions of the Commission

The functions of the Commission shall be provided for by an Act of Parliament.

- Selection of active-duty commanders

## 149C. Appointment of heads and deputies of National Security Institutions

1. The heads and deputies of the National Security Institutions shall be appointed by the King acting on the advice of the Prime Minister based on the recommendation of the Commission, following a transparent, fair, merit based and competitive process.
2. The appointment process shall be conducted by the Commission, which shall shortlist and interview competent, non-partisan, patriotic, professional, and disciplined senior most candidates within a particular National Security Institution.
3. The Commission shall recommend three candidates from each National Security Institution for the Prime Minister to consider.
4. The Prime Minister shall advise the King with one candidate for appointment as the head of a National Security Institution.
5. A person who has served as a head of any National Security Agency shall not be appointed to the command of any other National Security Institution.

6. Where there is a vacancy in the office of a head of a National Security Institution, the deputy shall act until the head is duly appointed. In the absence of both the head the deputy, the senior-most officer shall act.
7. The acting period in the office of the head or deputy head of a National Security Institution shall not exceed six months.

## 149D. Lesotho Defence Force

1. There shall be the Lesotho Defence Force for the defence of the Kingdom of Lesotho, which shall be the only lawful military force in Lesotho.
  2. A member of Cabinet shall be appointed to be the Minister responsible for defence and shall be the channel through which the Lesotho Defence Force shall be answerable to Parliament.
  3. The command of the Lesotho Defence Force shall be vested in the Chief of Defence Staff.
- Designation of commander in chief

## 149E. Functions of the Lesotho Defence Force

The functions of the Lesotho Defence Force shall be provided for by an Act of Parliament.

- Designation of commander in chief
- Advisory bodies to the head of state

## 149F. Deployment of the Lesotho Defence Force

1. The power to deploy the Lesotho Defence Force, except for routine military operations, shall be vested in the King, acting on the advice of the National Security Council.
2. If the King, on the advice of the National Security Council, deploys the Lesotho Defence Force due to a threat to the Kingdom of Lesotho, the Prime Minister shall, within fourteen days, report the deployment to Parliament stating-
  - a. the nature of the threat and the reason for the deployment;
  - b. the nature of the force, the place of deployment and the number of personnel involved;
  - c. the expected period of deployment; and
  - d. any other relevant information.
3. If Parliament is in recess during the first fourteen days after the Lesotho Defence Force is deployed, the Council of State shall, at the recommendation of the National Security Council, advise the King to convene an emergency session of Parliament to be briefed on the deployment.
4. Notwithstanding subsection (1), if circumstances arise that warrant urgent deployment of the Lesotho Defence Force, and it is not practically possible for the National Security Council to meet and advise the Commander in Chief on the deployment, the Chief of Defence Staff shall, with the approval of the Prime Minister and in consultation with the Minister responsible for Defence, authorise such deployment.
5. The deployment referred to in subsection (4) shall be reported to the National Security Council by the Prime Minister within three days.

## 149G. Lesotho Mounted Police Service

1. There shall be the Lesotho Mounted Police Service that shall be responsible for the maintenance of law and order in Lesotho and shall be the only Police Service in Lesotho.
2. A member of Cabinet shall be appointed to be the Minister responsible for the Police and shall be the channel through which the Police will be answerable to Parliament.
3. The command of the Lesotho Mounted Police Service shall be vested in the Chief of Police.

## 149H. Functions of the Lesotho Mounted Police Service

The functions of the Lesotho Mounted Police Service shall be provided for by an Act of Parliament.

## 149I. National Security Service

1. There shall be the National Security Service that shall be responsible for the provision of national intelligence and shall be the only National Security Service in Lesotho.
2. The command of the National Security Service shall be vested in the Director-General of the National Security Service who shall be answerable to the Prime Minister.
3. The Director-General shall be responsible for the administration and discipline of the National Security Service.

## 149J. Functions of National Security Service

The functions of the National Security Service shall be provided for by an Act of Parliament.

## 149K. Lesotho Correctional Service

1. There shall be the Lesotho Correctional Service that shall be responsible for the administration of correctional facilities in Lesotho and shall be the only Correctional Service in Lesotho.
2. A member of Cabinet shall be appointed to be the Minister responsible for the Lesotho Correctional Service and shall be the channel through which the Correctional Service will be answerable to Parliament.
3. The command and superintendence of the Lesotho Correctional Service shall be vested in the Chief of Corrections who shall be answerable to the Minister responsible for the Correctional Service.

## 149L. Functions of Lesotho Correctional Service

The functions of the Lesotho Correctional Service shall be provided for by an Act of Parliament.

## 149M. Establishment and functions of Independent Security Sector Oversight, Inspectorate and Complaints Authority

1. There shall be an Independent Security Sector Oversight, Inspectorate and Complaints Authority which shall be an oversight authority for the National Security Institutions in Lesotho.
2. The Independent Security Sector Oversight, Inspectorate and Complaints Authority shall be answerable to Parliament, through a relevant Portfolio Committee.

## 149N. Composition and appointment

1. The Authority shall consist of seven members of the Authority who shall be appointed on a part time basis, as follows:
  - a. a Chairperson who shall be a former judge and who shall be appointed by the National Security Commission.
  - b. an experienced legal practitioner, of high moral integrity, with a minimum of ten years of experience, who shall be appointed by the National

1.
  - b. Security Commission;
  - c. a qualified psychologist or any other expert as may be provided for by an Act of Parliament appointed by the National Security Commission;
  - d. a former member of the Lesotho Defence Force from the rank of Brigadier or above, who shall be responsible for the portfolio relating to the Lesotho Defence Force in the Authority;
  - f. a former member of Lesotho Mounted Police Service, from the rank of Senior Assistant Commissioner of Police or above, who shall be responsible for the portfolio relating to the Lesotho Mounted Police Service;
  - g. a former member of the National Security Service, from the rank of Director or above, who shall be responsible for the portfolio relating to the National Security Service; and
  - h. a former member of the Lesotho Correctional Service, from the rank of Senior Assistant Commissioner of Corrections or above who shall be responsible for the portfolio relating to the Lesotho Correctional Service.
2. All appointments, shall be carried out through a transparent, competitive, and impartial process.

## 149O. Functions

The functions of the Authority shall be provided for by an Act of Parliament.

## 149P. General principles of the Media

1. The media in Lesotho shall play an integral part in the development and democratisation process of the country.
2. The role of the media in society shall be based on the following principles:
  - a. the media shall promote freedom of expression;
  - b. the media shall be a platform that facilitates citizen participation in public affairs and development of the country;
  - c. providers of media services shall ensure professionalism and ethical conduct in the provision of media services, which shall include-
    - i. providing content that is not biased;
    - ii. protecting users from harmful content;
    - iii. respecting the right to privacy; and
    - iv. protecting society against incitement of violence, the commission of crimes and hatred; and
  - d. media shall be protected against revealing their confidential sources.
3. There shall be diversity of media ownership and media content in Lesotho.
4. The State shall encourage investment in the media by providing technological and other infrastructure for optimal innovation in the media sector.

- Media commission

## 149Q. Media Council of Lesotho

1. There shall be a Media Council of Lesotho which shall be an independent body that regulates the media industry.
2. In the performance of its functions, the Council shall not be subject to the control and direction of any person or authority.

## 149R. Settlement of disputes in the media sector

1. There shall be an office of the Media Ombudsman, which shall deal with settlement of disputes against the media sector.
2. The Media Ombudsman shall be appointed by the Minister responsible for communications on the advice of a selection panel following a fair, transparent, competitive and merit-based process to be provided for by an Act of Parliament.
3. The Media Ombudsman shall hold office for a period of five years.
4. In the performance of his or her duties, the Media Ombudsman shall be independent, impartial, and transparent and shall not be subject to the direction and control of any person or authority.

5. The duties and functions of the Media Ombudsman shall be provided for by an Act of Parliament.

## 150. Pensions laws and protection of pension rights

1. The law to be applied with respect to any pensions benefits that were granted to any person before the coming into operation of this Constitution shall be the law that was in force at the date on which those benefits were granted or any law in force at a later date that is not less favourable to that person.
2. The law to be applied with respect to any pensions benefits (not being benefits to which subsection (1) applies) shall--
  - a. in so far as those benefits are wholly in respect of a period of service as a public officer that commenced before the date on which this Constitution came into operation, be the law that was in force immediately before that date; and
  - b. in so far as those benefits are wholly or partly in respect of a period of service as a public officer that commenced after the date on which this Constitution came into operation, be the law in force on the date on which that period of service commenced,

or be any law in force at a later date that is not less favourable to that person.
3. Where a person is entitled to exercise an option as to which of two or more laws shall apply in his case, the law for which he opts shall, for the purposes of this section, be deemed to be more favourable to him than the other law or laws.
4. All pensions benefits shall be a charge on the Consolidated Fund.
5. In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.
6. References in this section to the law with respect to pensions benefits include (without prejudice to their generality) references to the law regulating the circumstances in which any such benefits that have been granted may be withheld, reduced in amount or suspended and the law regulating the amount of any such benefits.

## 151. Power to withhold pensions, etc

1. Where under any law any person or authority has a discretion--
  - a. to decide whether or not any pensions benefits shall be granted; or
  - b. to withhold, reduce in amount or suspend any such benefits that have been granted,

those benefits shall be granted and may not be withheld, reduced in amount or suspended unless the Public Service Commission concurs in the refusal to grant the benefits or, as the case may be, in the decision to withhold them, reduce them in amount or suspend them.
2. Where the amount of any pensions benefits that may be granted to any person is not fixed by law, the amount of the benefits to be granted to him shall be the greatest amount for which he is eligible unless the Public Service Commission concurs in his being granted benefits of a smaller amount.
3. The Public Service Commission shall not concur under subsection (1) or (2) in any action taken on the ground that any person who holds or has held the office of judge of the Court of Appeal, judge of the High Court, Attorney-General, Director of Public Prosecutions, Auditor-General or Ombudsman has been guilty of misbehaviour in that office unless he has been removed from that office by reason of such misbehaviour.
4. Before the Public Service Commission concurs under subsection (1) or (2) in any action taken on the ground that any person who holds or has held any office to which, at the time of such action, section 133 of this Constitution applies has been guilty of misbehaviour in that office, the Public Service Commission shall consult the Judicial Service Commission.

5. In this section "pensions benefits" means any pensions, compensation, gratuities or other like allowances for persons in respect of their service as public officers or for the widows, children, dependants or personal representatives of such persons in respect of such service.

## CHAPTER XIV. MISCELLANEOUS

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### 152. Resignations

1. Any person who is appointed, elected or otherwise selected to any office established by this Constitution or any office of Minister or Deputy Minister established under this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or otherwise selected:

Provided that--

- a. the resignation of a person from the office of President or Speaker or Vice-President or Deputy Speaker of either House of Parliament shall be addressed to that House; and
  - b. the resignation of any person from the office of member of either House of Parliament shall be addressed to the President or Speaker of that House.
2. The resignation of any person from any such office as aforesaid shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or any person authorised by that person or authority to receive it.

### 152A. Appointments

- Ombudsman
- Human rights commission
- Counter corruption commission

1. The Auditor General, Ombudsman, members of the Human Rights Commission, members of the Lesotho Independent Anti-Corruption and Ethics Commission and members of the Public Service Commission shall be appointed by the King acting in accordance with the advice of the Prime Minister, taking one from the three names selected through a fair, competitive, merit based and transparent parliamentary selection process to be provided for by an Act of Parliament.
2. A person shall be appointed to an office or a Commission under subsection (1), if the person-
  - a. is an indigenous Mosotho;
  - b. holds qualifications which shall be provided for by an Act of Parliament; and
  - c. is of high moral character and integrity and possesses such quality of mind to enable him or her to discharge the functions of his or her office, impartially, fairly and free from bias and prejudice.
3. The commissions and bodies provided for in subsection (1), and other bodies with similar functional mandate, are declared the state institutions strengthening and supporting constitutional democracy, and they shall be guided by the following values and principles:
  - a. these institutions are independent, and subject to only the Constitution and the law, and they shall be impartial and must exercise their powers and perform their functions without fear, favour or prejudice;
  - b. other organs of state, through legislative and other measures, assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions;
  - c. no person or organ of state may interfere with the functioning of these institutions; and
  - ci. these institutions are accountable to the National Assembly and must report on their activities and the performance of their functions to the Assembly at least once a year.

4. Public Administration shall be governed by democratic values and principles enshrined in the Constitution, including the following principles:
  - a. a high standard of professional ethics must be promoted and maintained;
  - b. efficient, economic and effective use of resources shall be promoted;
  - c. public administration shall be development-oriented;
  - d. services shall be provided impartially, fairly, equitably and without bias;
  - e. people's needs shall be responded to, and the public shall be encouraged to participate in policy-making;
  - f. public administration shall be accountable;
  - g. transparency shall be fostered by providing the public with timely, accessible and accurate information;
  - h. good human-resource management and career-development practices to maximize human potential, shall be cultivated, hence no personnel of any state organ, department and agency shall be engaged on contract after retirement; and
  - i. public administration shall be broadly representative of Basotho groupings, with employment and personnel management practices based on ability, objectivity, fairness, and the need to redress the imbalances of the past to achieve broad representation.
5. The principles listed in subsection (3) shall apply to-
  - a. administration in every sphere of government;
  - b. organs of state; and
  - c. public enterprises.
6. Across the board, the national legislation shall ensure the promotion of the values and principles listed in subsection (3).
7. The appointment in public administration of a number of persons on policy considerations is not precluded, but national legislation shall regulate these appointments in the public service.
8. Legislation regulating public administration may differentiate between sectors, administrations or institutions.
9. The nature and functions of different sectors, administrations or institutions of the public administration are relevant factors to be taken into account in legislation regulating public administration.

- Indigenous right to representation
- Civil service recruitment

## 152B. Tenure

A public officer or member of a Commission appointed under subsection (1) shall hold office for a period of seven years which shall not be renewable.

- Ombudsman

## 152C. Removal

1. The King may, acting on the advice of the Prime Minister, remove from office a person appointed under section 152A after the National Assembly makes a resolution for the removal of the person to the Prime Minister for-
  - a. inability to exercise the functions of his or her office whether arising from infirmity of body or mind or any other cause;
  - b. gross misconduct;
  - c. incompetence; or
  - d. any other ground that may affect the integrity of his or her office or the discharge of his or her duties and functions.
2. The process of appointing or removing a person under this section shall be as provided for by an Act of Parliament.
3. A resolution of the National Assembly concerning the removal from office of a member of the commission or a body in section 152A shall be adopted with a supporting vote of a majority of the members of the National Assembly.
4. The Prime Minister-
  - a. may suspend a person from office at any time after the start of the proceedings of a committee of the National Assembly for the removal of that person; and
  - b. shall recommend to the King, a removal of that person from office upon the adoption by the National assembly of the resolution calling for that person's removal.

- Legislative committees

## 153. Re-appointments and concurrent appointments

1. Where any person has vacated any office established by this Constitution or any office of Minister or Deputy Minister established under this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.
2. Where this Constitution vests in any person or authority the power to make any appointment to any office, a person may be appointed to that office, notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending the relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then, for the purposes of any functions conferred upon the holder of that office, the person last appointed shall be deemed to be the sole holder of the office.

- Treaty ratification
- International law

### 153A. International law and agreements

1. The Executive branch of Government, through the Minister responsible for international relations shall be responsible for initiating, negotiating, signing, acceding to and ratifying international conventions and treaties.
2. Notwithstanding subsection (1), the Executive shall not sign, ratify, or accede to an international agreement unless it has-
  - a. considered several variables including the cost implications involved in ratifying, acceding to the agreement or treaty as well as implementing its provisions;
  - b. tabled before Parliament, with an explanatory memorandum in respect of the agreement or treaty that it intends to sign, ratify, or accede to as may be provided for by an Act of Parliament; and
  - c. obtained approval by a resolution of both houses of parliament where the resolutions of the two Houses of Parliament differ, the resolution of the National Assembly shall prevail.
3. For purposes of expediency, the Executive may sign without prior approval of Parliament, but the signing shall not have effect until the conditions specified in sub-section (2) have been satisfied.
4. An international agreement which Lesotho has ratified or acceded to shall only become law in Lesotho when its provisions have been incorporated into an Act of Parliament.
5. A self-executing agreement approved by Parliament shall not become law unless their provisions have been incorporated into an Act of Parliament.
6. The Kingdom of Lesotho shall continue to be bound by international agreements or treaties which were binding on Lesotho before the coming into operation of this Constitution.
7. A court shall, in interpreting any legislation, take into account the general principles consistent with international law unless they are inconsistent with the Constitution or an Act of Parliament.
8. This section shall not apply to all non-binding memoranda of understanding, exchange of notes, declarations, and any such non-binding instrument.
9. Notwithstanding subsection (8), a designated person shall not sign such non-binding instrument without the approval of the Executive.

- Legal status of treaties

- Legal status of treaties

- Customary international law

## 154. Interpretation

1. In this Constitution, unless the context otherwise requires:
  - "Chief" does not include the King but includes Principal Chief, and Headman and any other chief whose office is recognised by section 103(1) of this Constitution, and references to a Chief are references to the person who, under the law for the time being in force in that behalf, is recognised as entitled to exercise the functions of the office of that Chief;
  - "Commonwealth" means Lesotho and any country recognised by the Commonwealth Secretariat situated in London as a member of the Commonwealth and any dependency of any such country;

1.
  - "court-martial" means any court-martial established by Parliament under section 127 of this Constitution;
  - "customary law" means the customary law of Lesotho for the time being in force subject to any modification or other provision made in respect thereof by any Act of Parliament;
  - "financial year" means the period of twelve months ending on 31st March in any year or on such other day as Parliament may prescribe;
  - "high judicial office" means the office of a judge of a court of unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or in any country outside the Commonwealth that may be prescribed by Parliament or the office of a judge of a court having jurisdiction in appeals from such a court;
  - "Gazette" means the Lesotho Government Gazette;
  - "indigenous Mosotho" means a person whose ancestry can be traced back to at least three generations as citizens of Lesotho;
  - "law includes--
    - i. any instrument having the force of law made in exercise of a power conferred by a law; and
    - ii. the customary law of Lesotho and any other unwritten rule of law and "lawful" and "lawfully" shall be construed accordingly;
  - "local authority" means a person or body of persons established by law, responsible for the administration of local government or of local affairs, and shall include a chief;
  - "oath" includes affirmation;
  - "oath of allegiance" means the oath of allegiance set out in Schedule 3 to this Constitution or such other oath as may be prescribed by Parliament;
  - "Principal Chief" means a chief whose office is among those set out in Schedule 2 to this Constitution;
  - "public office" means any office of emolument in the public service;
  - "public officer" means a person holding or acting in any public office;
  - "public service" means, subject to the provisions of this section, the service of the King in respect of the government of Lesotho;
  - "session" means the period beginning when the two Houses of Parliament first meet after the coming into operation of this Constitution or after Parliament has at any time been prorogued or dissolved and ending when Parliament is prorogued or when Parliament is dissolved without having been prorogued;
  - "sitting" means, in relation to a House of Parliament, the period during which that House is sitting continuously without adjournment and includes any period during which it is in committee;
  - "subordinate court" means any court of law established for Lesotho other than--
    - a. the Court of Appeal;
    - b. the High Court;
    - c. a court-martial; and

1.
  - d. a tribunal exercising a judicial function.
2. Unless otherwise indicated, any reference in this Constitution to--
  - a. a section, Chapter or Schedule shall be read and construed as a reference to a section or Chapter of or Schedule to this Constitution;
  - b. a subsection shall be read and construed as a reference to a subsection of the section in which the reference is made;
  - c. a paragraph shall be read and construed as a reference to a paragraph of the Schedule, subsection or definition in which the reference is made.
3. In this Constitution, unless the context otherwise requires, references to an office in the public service shall be construed as including references to the office of a judge of Court of Appeal, of a Judge of the High Court and the office of a member of any subordinate court or tribunal (being an office the emoluments attaching to which, or any part of the emoluments attaching to which, are paid directly out of the monies provided by Parliament) but shall not be construed as including references to the office of assessor in any court.
4. In this Constitution references to a public office shall not be construed as including--
  - a. references to the office of King, the Regent, the President or Speaker or the Vice-President or Deputy Speaker of either House of Parliament, the Prime Minister or any other Minister, a Deputy Minister or a member of either House of Parliament; or
  - b. references to the office of a member of the Public Service Commission or the Judicial Service Commission, a member of the Council of State, a Chief or a member of the College of Chiefs; or
  - c. save in so far as may be provided by Parliament, references to the office of a member of any other council, board, panel, committee or other similar body (whether incorporated or not) established by or under any law.
5. In this Constitution and any other laws, unless the context otherwise requires,
  - a. where the words or expressions "he" or "him" appears insert after the words or expressions "or she" and "or her" respectively, except in the case of the King.
  - b. words and expressions in the singular include the plural and words and expressions in the plural include the singular;
  - c. where a period of time is expressed--
    - i. to begin on or to be reckoned from a particular day, that day shall not be included in the period;
    - ii. to end or to be reckoned to a particular day, that day shall be included in the period;
  - d. where the time limited for the doing of any thing expires or falls upon a Saturday, Sunday or public holiday the time so limited shall extend to and the thing may be done on the first following day that is not a Saturday, Sunday or public holiday.

## 155. Construction of Constitution

1. For the purposes of this Constitution, a person shall not be regarded as holding an office by reason only of the fact that he is in receipt of a pension or other like allowance.
2. In this Constitution, unless the context otherwise requires, a reference to the holder of an office by the term designating his office shall be construed as including, to the extent of his authority, a reference to any person for the time being authorised to exercise the functions of that office.
3. Except in the case where this Constitution provides for the holder of any office thereunder to be such person holding or acting in any other office as may for the time being be designated in that behalf by some specified person or authority, no person may, without his consent, be nominated for election to any such office or be appointed to or act therein or otherwise be selected therefor.
4. References in this Constitution to the power to remove a public officer from his office shall be construed as including references to any power conferred by any law to require or permit that officer to retire from the public service:

Provided that--

4.
  - a. nothing in this subsection shall be construed as conferring on any person or authority the power to require a judge of the Court of Appeal or a judge of the High Court or the Attorney-General or Director of Public Prosecutions or the Ombudsman or the Auditor-General to retire from the public service; and
  - b. any power conferred by any law to permit a person to retire from the public service shall, in the case of any public officer who may be removed from office by some person or authority other than a Commission established by this Constitution, vest in the Public Service Commission.
5. Any provision in this Constitution that vests in any person or authority the power to remove any public officer from his office shall be without prejudice to the power of any person or authority to abolish any office or to any law providing for the compulsory retirement of public officers generally or any class of public officers on attaining an age specified by or under that law.
6. Where this Constitution vests in any person or authority the power to appoint any person to act in or to exercise the functions of any office if the holder thereof (or any other person having a prior right to exercise those functions) is himself unable to exercise those functions, no such appointment shall be called in question on the ground that the holder of the office (or that other person) was not unable to exercise those functions.
7. No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in the exercise of any functions under this Constitution shall be construed as precluding a court from exercising jurisdiction in relation to any question whether that person or authority has exercised those functions in accordance with this Constitution or any other law.
8. Where, under any provision of this Constitution, any person or authority is authorised or required to exercise any function after consultation with some other person or authority, the person or authority first referred to shall not be required to act in accordance with the advice of the other person or authority and the question whether such consultation was made shall not be enquired into in any court.
9. Any reference in this Constitution to a law made before the day on which this Constitution came into operation shall, unless the context otherwise requires, be construed as a reference to that law as it had effect immediately before that day.
10. Any reference in this Constitution to a law that amends or replaces any other law or any provision of any other law shall be construed as including a reference to a law that modifies, re-enacts, with or without amendment or modification, suspends, repeals, adds new provisions to or makes different provision in lieu of that other law or that provision.
11. Save as otherwise provided, where under the provisions of this Constitution a person is required to take and subscribe an oath, that person shall be permitted, if he so desires, to comply with that requirement by taking and subscribing an affirmation.

- Transitional provisions

## CHAPTER XV. TRANSITIONAL AND TEMPORARY PROVISIONS

### 156. Existing law and related matters

1. Subject to the provisions of this Constitution, the existing laws shall continue in force and effect on and after the coming into operation of this Constitution and shall then have effect as if they had been made in pursuance of this Constitution, but they shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Constitution.
2. Where any matter that falls to be prescribed or otherwise provided for under this Constitution by Parliament or by any other person or authority is prescribed or

2. provided for by or under any of the existing laws (including any amendment to any such law made under this section), that prescription or provision shall, as from the coming into operation of this Constitution, have effect (with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this Constitution) as if it had been made under this Constitution by Parliament or, as the case may be, by the other person or authority.
3. Matters that have to be provided for by an Act of Parliament and any matter that has to be implemented to bring into effect the provisions of this Constitution shall, immediately after the coming into operation of this Constitution, be prescribed or implemented by a responsible authority within a period of eighteen months.
- 3A. If at the expiry of eighteen months period referred to in subsection (3), there is any matter that is incomplete, Parliament may extend the period of eighteen months for a further term of eighteen months.
- 3B. Parliament shall, by an Act of Parliament, establish the responsible authority referred to in subsection (3), whose functions shall be to-
  - a. monitor, facilitate and oversee the development of legislation and administrative matters necessary for the implementation of this Constitution, including transitional mechanisms and processes in respect of affected offices; and
  - b. such other functions as the Parliament may consider necessary.
- 3C. The responsible authority referred to in subsection (3) shall-
  - a. co-ordinate with the Attorney-General who shall ensure that the letter and spirit of this Constitution is respected in the preparation, development and tabling of legislation required to implement this Constitution; and
  - b. stand dissolved thirty-six months after it is established or at the full implementation of this Constitution as determined by Parliament, whichever comes first, but the National Assembly may, by resolution, extend its life.
4. The provisions of this section shall be without prejudice to any powers conferred by this Constitution or by any other law upon any person or authority to make provision for any matter, including the amendment or repeal of any existing law, and regulations made under this section may be amended or revoked by Parliament or, in relation to any of the existing laws affected thereby, by any other authority having power to amend, repeal or revoke that existing law.
5. In this Chapter, "existing law" means any law or instrument having force and effect as part of the law of Lesotho immediately before the coming into operation of this Constitution (and includes any such law or instrument made before that day and promulgated or otherwise coming into operation on or after that day), but does not include any such law or instrument which is repealed, by this Constitution or otherwise, on the coming into operation of this Constitution.

## 157. The King and the Regent

1. The person holding the office of King under the Office of King Order 1990 immediately before the coming into operation of this Constitution shall, subject to the provisions of this Constitution, continue to hold that office and shall take and subscribe the oath for the due execution of his office which is set out in Schedule 1 to this Constitution.
2. A person holding the office of Regent under the Office of King Order 1990 immediately before the coming into operation of this Constitution shall, subject to the provisions of this Constitution, continue to hold that office and shall take and subscribe the oath for the due execution of his office which is set out in Schedule 1 to this Constitution.

- Oaths to abide by constitution

- Oaths to abide by constitution

## 158. Prime Minister

On the coming into operation of this Constitution, the person who is appointed Prime Minister Designate in accordance with section 4 of the Lesotho Constitution (Commencement) Order 1993 shall, notwithstanding section 87(2), be deemed to have been appointed Prime Minister under section 87 of this Constitution, and shall take and subscribe the oath provided for by section 94.

## 159. The Assembly

1. On the coming into operation of this Constitution, the members of the National Assembly elected in the general election held under the National Assembly Election Order 1992 shall become members of the National Assembly established by this Constitution--
2. Notwithstanding sections 56, 67 and 74(2) of this Constitution, until the first dissolution of the National Assembly following the coming into operation of this Constitution,
  - a. Lesotho shall be divided into 65 constituencies as provided by the National Assembly Election Order 1992;
  - b. the National Assembly shall consist of 65 members; and
  - c. the quorum of the National Assembly shall be sixteen members.
3. Notwithstanding section 67(3), the Electoral Commission shall, as soon as practicable before the first dissolution of the National Assembly following the commencement of this subsection, review the boundaries of the constituencies into which Lesotho is divided in order to give effect to the provisions of section 67 and may, for the purpose of that review, take into account, modify or where necessary, repeal any review undertaken by the Constituency Delimitation Commission in existence before the commencement of this subsection.

## 160. Rules of Procedure of Parliament

Until rules are made by the Senate and National Assembly under section 81 of this Constitution, the rules made by the Senate and National Assembly under section 66 of the Independence Constitution of 1966 shall have effect to regulate the procedure of Parliament.

## 161. High Court

1. The High Court of Lesotho in existence immediately before the day on which this Constitution comes into operation shall, as from that day, be the High Court for the purposes of this Constitution, and any proceedings pending before the High Court of Lesotho immediately before that day may be continued before the High Court of Lesotho as hereby constituted and any judgement or order of the former High Court given, but not satisfied, before that day may be enforced accordingly.
2. The provisions of section 163 of this Constitution shall apply in relation to the offices of Chief Justice and judge of the High Court, and any person who, by virtue of the provisions of this subsection, hold or acts in any such office as from the coming into operation of this Constitution shall be deemed to have taken and subscribed any necessary oath under this Constitution.

## 162. Court of Appeal

1. The Court of Appeal for Lesotho in existence immediately before the day on which this Constitution comes into operation shall, as from that day, be the Court of Appeal for the purposes of this Constitution and any proceedings pending before the Court of Appeal for Lesotho immediately before that day may be continued before the Court of Appeal as hereby constituted and any judgement or order of the former Court of Appeal given, but not satisfied, before that day may be enforced accordingly.
2. The provisions of section 163 of this Constitution shall apply in relation to the Offices of President and Justices of Appeal of the Court of Appeal and any person who, by virtue of the provisions of this subsection, holds or acts in any such office as from the coming into operation of this Constitution shall be deemed to have taken and subscribed any necessary oath under the Constitution.

## 163. Existing public officers, public offices and institutions

1. A person who before the coming into operation of this Constitution holds an office established under this Constitution shall continue to hold the office in terms of this Constitution subject to-
  - a. consistency and conformity with this Constitution; and
  - b. any amendment or repeal of the legislation applicable to his or her office.
2. Any person who under this Constitution or any existing law would have been required to vacate his or her office at the expiration of any period shall within a period of six months of the coming into operation of this Constitution, vacate his or her office and may choose either-
  - a. to retire from the office; or
  - b. continue to serve in the office subject to appointments, mechanisms and procedure provided in this Constitution and any other legislation.
3. A public office or institution established under this Constitution is the legal successor of the corresponding office or institution established under the Constitution or by an Act of Parliament in force immediately before the coming into operation of this Constitution whether known by the same or a new name.
4. The provisions of this section do not apply to a person who held or acted in any office established by a law repealed, by this Constitution or otherwise, on the coming into operation of this Constitution.

## 164. Salaries charged on the Consolidated Fund

1. Where under any existing law or any arrangements in force immediately before the coming into operation of this Constitution, provision is made for the salary and allowances of any person to whom section 163 applies and whose office is specified in section 115(5) such salary and allowances shall, until Parliament makes further provision in that regard, be a charge on the Consolidated Fund.
2. The Minister responsible for finance may, by regulations, prescribe the salaries and allowances of the offices specified in section 115(5) other than those of a person to whom subsection (1) of this section applies, and such salaries and allowances shall, until Parliament makes further provision in that regard, be a charge on the Consolidated Fund.

## 165. Declaration of public emergency

If, immediately before the coming into operation of this Constitution, a declaration of emergency made under section 3 of the Emergency Powers Order 1988 is in force, such declaration shall be deemed to be a declaration of a state of emergency made on the date on which this Constitution comes into operation and the provisions of section 23 shall apply accordingly.

## 166. Repeals

The following enactments are hereby repealed--

- a. Part II of the Lesotho Citizenship Order 1971;
- b. the Human Rights Act 1983;
- c. Sections 8 to 12 (inclusive), 15 and 24 of the Finance Order 1988;
- d. the Judicial Service Commission Act 1983.

- God or other deities
- Oaths to abide by constitution

## SCHEDULE 1. OATH OF OFFICE OF KING OR REGENT (Section 51)

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In the presence of Almighty God and in the full realisation of the responsibilities and duties of the high office of King (Regent) and of the binding nature and binding force of this Oath, I, do swear that I will obey and observe the provisions of the Constitution and all other laws of Lesotho, that I will discharge my duties in such manner as to preserve the character of the monarchy as a symbol of the unity of the Basotho Nation, and that I will accordingly abstain from involving the monarchy in any way in politics, or with any political party or group.

SO HELP ME GOD.

Sworn before me at on this the day of

## SCHEDULE 2. PRINCIPAL CHIEFS (Section 103(1))

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The Principal Chief of Botha-Bothe

The Principal Chief of Makhoakhoeng

The Principal Chief of Leribe

The Principal Chief of Tsikoane and Kolbere

The Principal Chief of Ha 'M'amathe, Thupa-Kubu, Tejatejaneng and Jordan

The Principal Chief of Ha Majara

The Principal Chief of Koeneng and Mapoteng

The Principal Chief of Matsieng

The Principal Chief of Ha Ramabanta and Kubake

The Principal Chief of Rothe, Masite, Serooeng, Lets'eng, Kolo Ha Mohlalefi and Thaba-Tseka Ha Ntaote

The Principal Chief of Thaba-Bosiu

The Principal Chief of Ha Maama

The Principal Chief of Tebang, Ts'akholo and Ha Seleso

The Principal Chief of Tajane, Ha Ramoetsana and Ha Mohale

The Principal Chief of Matelile

The Principal Chief of Likhoele

The Principal Chief of Phamong

The Principal Chief of Taung

The Principal Chief of Quthing

The Principal Chief of Qacha's Nek

The Principal Chief of Mokhotlong

The Principal Chief of Malingoaneng

- Oaths to abide by constitution
- God or other deities

## SCHEDULE 3. OATH OR AFFIRMATION OF ALLEGIANCE (Section 154)

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I, do swear (or solemnly affirm) that I will be faithful and bear true allegiance to King , his heirs and successors, according to this Constitution and the laws of Lesotho.

So help me God. [To be omitted in affirmation]

## SCHEDULE 4

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1. Appointed Member of Council of State
2. Chief Justice
3. Deputy Chief Justice
4. Judge President
5. Deputy Judge President
6. Judge of the Supreme Court
7. Judge of the High Court
8. Attorney General
9. Member of Parliamentary Service Commission
10. Member of Judicial Service Commission
11. Member of Public Service Commission
12. Member of the National Security Commission
13. Member of Human Rights Commission
14. Member of Lesotho Anti-Corruption and Ethics Commission
15. Member of Independent Electoral Commission
16. Member of National Development Planning Commission
17. Auditor-General
18. Public Protector
19. Director of National Public Prosecutions Authority
20. Member of Security Sector Inspectorate, Oversight and Complaints Authority.

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