

TENTH AMENDMENT TO THE CONSTITUTION BILL, 2024

A BILL for

An Act to amend the Constitution of Lesotho, 1993; and provide for related matters.

ENACTED by the Parliament of Lesotho.

PREAMBLE

We, the Basotho nation:

Acknowledging the supremacy of God, the Almighty;

Inspired by the legacy of Morena Moshoeshoe I, the Founder of the Basotho Nation, which is based on the values of good governance, prosperity, peaceful co-existence, reconciliation, and unity;

Mindful of the challenges of political instability, conflict, and under-development in our recent history;

Conscious of the need to manage our natural resources sustainably and efficiently for the equitable benefit of the present and future generations;

Determined to build a better future based on a stable democracy, strong economy, peace, equality of opportunity, prosperity, and sustainable development;

Affirming our resolve to uphold, commit and embrace, as pillars of our national cohesion and governance the following foundational values:

- (a) se-Moshoeshoe, nation-building, peace, and unity;
- (b) respect for human rights and freedoms, equality, human dignity, and gender equity;
- (c) supremacy of the Constitution, rule of law, justice, separation of powers and the independence of the judiciary;
- (d) democracy, accountability, responsiveness, and openness; and
- (e) **A God-Fearing Nation.**

NOW THEREFORE, adopt this Constitution as the supreme law of the Kingdom of Lesotho.

Short title and commencement

1. This Act may be cited as the **Tenth Amendment to the Constitution Bill, 2024** and shall come into operation on the date of its publication in the Gazette.

Insertion of new section 3A: Age of majority

2. The Constitution of Lesotho, herein referred to as the Constitution, is amended by inserting the following section after section 3:

“Age of majority

3A. (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.”.

Amendment of section 3: Official languages

3. Section 3 of the Constitution of Lesotho (herein referred to as “the Constitution”) is amended by -

(a) deleting subsection (1) and substituting the following:

“3(1) The official languages of Lesotho shall be Sesotho, English, isiXhosa and SiPhuthi.

(b) inserting the following subsections after subsection (1):

“(1A) Notwithstanding subsection (1), any of 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 prescribed 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 all 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 all official Government communication is translated into a sign language and braille subject to subsection (1D).”

Insertion of a new section 20A: Affirmative action in favour of marginalised groups

4. The Constitution is amended by inserting the following section after section 20:

“Affirmative action in favour of marginalised groups

20A. (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 full effect to this section.”.

Insertion of a new section 22A: Public interest

5. The Constitution is amended by inserting the following section after section 22:

“Public interest

22A. (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 may make provision for the exercise of the right under this section.”.

Amendment of section 24: Interpretation and savings

6. The Constitution is amended in section 24 by deleting the words “disciplined force” and wherever they appear in this Constitution and substituting the words “National Security Agencies.”.

Amendment of section 60: Tenure of seats of Members of Parliament

7. Section 60 (1) of the Constitution is amended -

- (a) in paragraph (f), by deleting the “full stop” and substituting “;or”;**
- (b) inserting the following paragraph after paragraph (f):**
 - “(g) if the member crosses the floor; or**
 - (h) if he votes against his party in a motion of no confidence or an Appropriation bill.”.**

Amendment of section 65: Clerks to Houses of Parliament and their staff

8. The Constitution is amended in section 65 by deleting subsections (2) and (3) and substituting the following subsection:

“(2) The offices of the Clerk to the Senate and the National Assembly shall be offices in the Parliamentary Service, and an Act of Parliament shall make provision for their functions, terms and conditions of Service.”.

Insertion of new sections 65A – 65B

9. The Constitution is amended by inserting the following sections after section 65:

“Establishment of Parliamentary Service

65A. There shall be a parliamentary service which shall be a service within the Public Service responsible for parliamentary affairs.

Parliamentary Service Commission

65B. (1) There shall be the Parliamentary Service Commission, which shall be an autonomous body.

(2) The composition, powers and functions of the Parliamentary Service shall be provided by an Act of Parliament.”.

Amendment of section 96: Principal Secretaries

10. The Constitution is amended by deleting section 96 and substituting the following:

“Government Secretary

96. (1) There shall be a Government Secretary whose office shall be an office in the public service.

(2) The Government Secretary shall-

- (a) **be appointed by the Prime Minister from the short list of three names recommended by the Public Service Commission through a transparent, merit-based, fair and competitive process as may be set out in an Act of Parliament;**
- (b) be employed for an initial period of five years which may be renewed for a further period of five years upon satisfactory performance of duties;
- (c) be the head of the civil service;
- (d) lead, manage, monitor, and evaluate the performance of the civil service;
- (e) convey the policies and decisions of the government to the appropriate persons or authorities and for ensuring that those policies and decisions are properly carried out;
- (f) establish systems to monitor overall performance in the civil service;
- (g) have overall responsibility over public officers;
- (h) attend to any residual matters which do not fall within the purview of permanent secretaries;
- (i) enter into performance agreements with Permanent Secretaries, supervise and monitor their performance;

- (j) be accountable to the Prime Minister; and
- (k) perform other functions as may be assigned to him or her by the Government.”.

Amendment of section 97: Government Secretary

11. The Constitution is amended by deleting section 97 and substituting the following:

“Permanent Secretaries

97. (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 set out in an Act of Parliament;
- (b) be the Chief Executive Officer and Chief Accounting Officer of the relevant Ministry;
- (c) be employed for an initial period of five years which may be renewed for another five years upon satisfactory performance of duties;
- (d) be subject to the general direction and control of the Government Secretary, exercise administrative and functional supervision over the department to which he or she is allocated;
- (e) be under the general supervision of the Minister responsible for the Ministry to

which the Permanent Secretary is allocated;

- (f) set directions, objectives and appropriate guidelines and strategies for the Ministry under his or her management in accordance with the established performance monitoring and management systems;
- (g) be responsible for the initiation, formulation and implementation of the policies of the Government or the Ministry under his or her management or control;
- (h) be responsible for advising the Minister on the policy and technical issues of the Ministry for which he or she is responsible;
- (i) be responsible for setting the annual work plan and cascade it down to the managerial ranks of the Ministry;
- (j) be responsible for ensuring that the Ministry develops a performance charter to be displayed at the entrance of the Ministry;
- (k) comply with prescribed performance monitoring and management systems; and
- (l) perform such other functions which may be assigned to him or her by the Government.”.

Amendment of section 105: National Planning Board

12. The Constitution is amended by deleting section 105 and substituting the following:

“Establishment of the National Development Planning Commission

105 (1) There shall be established a National Development Planning Commission which shall be an apex body responsible for formulating strategic development frameworks, policies, and related matters;

(2) The Commission shall report to the Prime Minister.

(3) In execution of its functions the Commission shall take into account -

(a) the provisions stipulated under Chapter 3 of this Constitution;

(b) shall not be subject to the direction or control of any person or authority.

(4) An Act of Parliament shall make provision for a Secretariat to assist the Commission in carrying out its functions under this Constitution.”.

Insertion of new sections 105A- 105E

13. The Constitution is amended by inserting the following new sections after section 105:

“Composition of members of the Commission

105A. (1) The Commission shall consist of the following nine members with knowledge and experience in socio - economic matters:

(a) a Chairperson and two Deputy Chairpersons;

(b) four part-time members;

(c) the Governor of the Central Bank of Lesotho and the Accountant General who shall be ex-officio and non-voting members; and

(d) the Director General and Head of Administration of the Secretariat who shall be the Secretary to the Commission with no voting powers.

Appointment of members of the Commission

105B. Members of the Commission shall be appointed by the King on the advice of the Council of State upon a recommendation by Parliament following a fair, transparent, merit-based and competitive process.

Tenure of Office

105C. (1) The Chairperson and the Deputy Chairpersons shall be appointed for a term of five years, which may be renewable once for a further period of five years, upon satisfactory performance.

(2) Commissioners, other than the Chairperson and Deputy Chairpersons, shall be appointed on a part-time basis, for a period of four years, which may be renewable once for a further period of four years upon satisfactory performance.

Functions of the National Development Commission

105D (1) The Commission shall have the following functions:

- (a) develop and implement strategic national development frameworks and policies;
- (b) draw long term strategic framework, medium term implementation plans and rolling triennial national programmes of action;
- (c) oversee all activities relating to official statistics and the national statistical system;
- (d) undertake national capacity assessment for implementing development plans and programmes;
- (e) liaise with local government authorities on developmental issues;
- (f) co-ordinate development partnerships and assistance;
- (g) devise development financing strategy and framework;
- (h) engage in development risk analysis and management;
- (i) conduct ongoing monitoring and evaluation of national development plans and programmes;

- (j) periodically review strategic framework, implementation plan and programmes of action;
- (k) undertake feasibility studies and conduct appraisal of public projects;
- (l) produce reports on completion of each task;
- (m) table, through the Prime Minister, strategic frameworks, plans, policies and related reports, from the Commission within thirty days before Parliament for adoption and presentation for gazettal;
- (n) undertake any other activities which are relevant to the development planning agenda of the country.

Powers and authority of the National Development Planning Commission

105E. The Commission shall, in performing its functions, under section 105D, have the power to -

- (a) hold meetings for purposes of collecting, compiling, discussing, analysing and interpreting any information relevant to the planning process at any place and time as it may determine whenever deemed necessary;
- (b) subpoena any person to provide oral or written information where it considers such information necessary for achieving its objectives;
- (c) invite any person whether individual, juristic, or group of people to make presentations to the Commission on any matter relating to the planning process;
- (d) appoint the Director General of the Commission and two Deputies through a fair, merit based and transparent process as specified in an Act of Parliament;
- (e) engage the services of experts, institutions or other persons deemed necessary in the performance of its functions;
- (f) organise itself into thematic sub-committees as deemed necessary;

- (g) take decisions on all matters relating to its objectives and to ensure the implementation of such decisions by making recommendations to relevant structures;
- (h) take such lawful steps as may be necessary to exercise its powers, and to fulfil its objectives; and
- (i) any other acts that may be prescribed by an Act of Parliament.

Amendment of Chapter X – Finance

14. The Constitution is amended by deleting Chapter X and substituting the following:

“CHAPTER X FINANCE

The Consolidated Fund

110. There is continued in existence 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.

Withdrawals from the Consolidated Fund and other public funds

111. (1) Moneys may 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) 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.

- (3) 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.
- (4) 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 prescribed by this Constitution or under an Act of Parliament.

(5) 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 prescribed by or under an Act of Parliament, for the purpose of making repayable advances.

Authorisation of expenditure from the Consolidated Fund by appropriation

112. (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, to the purposes specified therein.

(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 and, when the supplementary estimate or statement of excess has been approved by Parliament, a supplementary Appropriation Bill shall be introduced in the Parliament, providing for the issue of such sums from the Consolidated Fund and appropriating them to the purposes specified therein.

(4) The supplementary estimates referred to in subsection (3) shall not exceed twenty percent of the approved annual budget.

(5) 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.

Contingencies Fund

113. (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.

Remuneration of certain officers

114. (1) There shall be paid to the holders of the offices specified in Schedule 7 to this Constitution, such salaries and allowances as may be prescribed in an Act of Parliament.

(2) Nothing in this section shall be construed as prejudicing the provisions of section 150 of this Constitution (which protects pensions rights in respect of service as a public officer).

Public debt

115. (1) The following conditions shall be met before the government can conclude any agreement which could have an impact on the country's sovereign debt position:

- (a) proposed borrowing shall emanate from the Minister responsible for the project or the Minister responsible for finance in the instance of budget support;
- (b) a project for which a loan is being proposed shall be assessed by the National Development Planning Commission for

feasibility, viability, and compliance with the set national objectives within two weeks;

- (c) a proposed loan shall be sanctioned by Parliament; and
- (d) an approved loan shall be signed only by the Minister responsible for finance.

(2) Monetary public debt receipts shall be deposited into the Consolidated Fund.

(3) Debt charges for which Lesotho is liable shall be a charge on the Consolidated Fund.

(4) For the purposes of this section, debt charges include interest, sinking fund charges, the repayment or amortisation of debt and all expenditure in connection with the raising of loans on the security of the Consolidated Fund and the service and redemption of the debt created thereby.

(5) A public debt shall only be taken when -

- (a) there are projections that indicate that there will be enough revenue in the foreseeable future to service it; and
- (b) it is intended for developmental purposes only except in the instance of budget support.

(6) Other conditions for the public debt not referred to in this section shall be regulated by an Act of Parliament.

Fiscal Devolution

116. A local government council shall prepare its own budget, which shall contain:

- (a) estimates of revenue and expenditure, differentiating between recurrent and development expenditure;

- (b) proposals for financing any anticipated deficit for the period to which they apply; and
- (c) proposals regarding borrowing and other forms of public liability that will increase public debt during the following year.

Establishment of the Central Bank of Lesotho

117K. (1) There is established the Central Bank of Lesotho (herein referred to as the Central Bank), which shall-

- (a) be a body corporate with perpetual succession; and
- (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 under this Constitution or an Act of Parliament.

(2) The Central Bank shall be the Bank for banks and the Bank for the Government of Lesotho.

(3) The Central Bank shall, in carrying out its mandate under this Constitution and an Act of Parliament-

- (a) be accountable to Parliament, through a relevant portfolio Committee;
- (b) be independent and free from the influence or interference of any person or authority; and
- (c) act without undue influence, fear, favour or prejudice.

Salaries and Remunerations Commission

117L. (1) There shall be a Salaries and Remunerations Commission which shall be answerable to Parliament through the relevant portfolio committee.

(2) The powers and functions of the Salaries and Remunerations Commission shall be to determine, review and harmonize pay and benefit thresholds for -

- (a) all officers and persons whose salaries and benefits are drawn from the Consolidated Fund except for members of the Salaries and Remunerations Commission;
- (b) Members of Parliament and Members of the Executive arm of Government **and Judiciary**;
- (c) all Statutory Positions holders specified under Section 115(1) of the Constitution; and
- (c) all Boards, councils, and advisory bodies of parastatals, state owned enterprises and government agencies.

(3) Salaries and benefits of the Members of the Salaries and Remuneration Commission shall be determined by the Minister responsible for Finance with the approval of Parliament.

(4) The Salaries and Remunerations Commission shall consist of-

- (a) the Chairperson, Deputy Chairperson and one other Member appointed by the King on the advice of the Council of State acting on the recommendation of Public Service Commission following a fair, merit-based, transparent and competitive process which shall be specified in an Act of Parliament; and
- (b) three ex-officio members, each nominated from the following institutions:
 - (i) the Central Bank of Lesotho;
 - (ii) Nation Development Planning Commission; and
 - (iii) Office of the Accountant General.

(5) Members of the Commission shall elect a Chairperson and Deputy Chairperson when the Commission first meets.

(6) Members of the Commission shall be appointed for a single term of seven years and it is not eligible for reappointment.

(7) The Ministry of Public Service shall provide the Secretariat to the Commission from its own personnel as may be required by the Commission.

(8) An Act of Parliament shall provide any other functions that may be determined.

Disqualification

117M. (1) Persons appointed under section (3) (a) shall not be Members of Parliament.

(2) A person shall not be appointed to the Salaries and Remuneration Commission unless the person meets the qualifications specified by an Act of Parliament.”.

Insertion of new chapter XIA: The Human Rights Commission

15. The Constitution is amended by inserting the following chapter after Chapter XI:

“CHAPTER XIA

THE HUMAN RIGHTS COMMISSION

The Human Rights Commission

Establishment of the Human Rights Commission

133A. (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.

Composition and appointment of the Commission

133B. (1) The Commission shall consist of three 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 prescribed by an Act of Parliament.

(4) Members of the Commission shall be appointed for a single term of seven years and it is not eligible for appointment.

Functions of the Commission

133C. 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 determined by an Act of Parliament.**

Disqualification for appointment

133D. (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.**

Tenure of office

133E. (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 (3) shall hold office for the remainder of the term of the vacating member of the Commission.”.

Amendment of section 143: Principal representatives of Lesotho abroad

16. The Constitution is amended by deleting section 143 and substituting the following:

“CHAPTER XIIIIB FOREIGN SERVICE

Establishment

143A (1) There shall be a Foreign Service which shall-

- (a) be a specialised professional service within the Public Service; and
- (b) adhere to international law, and all legal instruments to which Lesotho is a signatory and has ratified.

Composition

143B. (1) The Foreign Service shall comprise the following:

- (a) the Ministry Headquarters; and
 - (b) all Lesotho Missions abroad and personnel who serve in positions in such Missions, including Heads of Mission and other diplomatic or consular officers, attachés (the people with specialised knowledge and skills from other Government Ministries or institutions), including Honorary Consuls and administrative, technical and service staff.
- (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;
 - (b) other officers and attachés with specific expertise seconded or on special assignment from other Government ministries, agencies and/or parastatals; and
 - (c) **direct appointments with qualified candidates who are not from within the public service.**

Appointment

143C (1) Principal Representatives of Lesotho abroad shall be appointed by the King acting on the advice of the Public Service Commission, following a transparent, merit-based, fair, and competitive process as set out in the Act of Parliament.

(2) The power to remove officers in this category shall vest in the King, acting in accordance with the advice of the Public Service Commission and the Ministry responsible for Foreign Affairs and International Relations.

(3) The power to discipline officers in this category shall vest in the Public Service Commission.

(4) Principal Representatives of Lesotho abroad shall serve for a period of 4 years, which may be renewed for a further period of 4 years, upon satisfactory performance.

(5) Principal Representatives of Lesotho abroad, who at the time of appointment are not public officers, shall be appointed on appropriate contract terms.

(6) Principal Representatives of Lesotho abroad shall have a performance contract with the Ministry responsible for international relations, to ensure accountability of their performance while abroad.

(7) Principal Representatives of Lesotho abroad shall administratively report to the Permanent Secretary in the Ministry responsible for foreign affairs and international relations.

(8) Appointment of Career diplomats and other officers on secondment or on special assignment from other Ministries, Government Agencies and Parastatals, and other related matters, shall be regulated by an Act of Parliament.

Functions

143D (1) The foreign service shall promote and protect interests and citizens of Lesotho abroad.

(2) All other functions and matters relating to foreign service shall be prescribed in an Act of Parliament.”.

Amendment of sections 145-149

17. The Constitution is amended by deleting sections 145, 146, 147, 148 and 149 and substituting the following:

“Chapter XIII B NATIONAL SECURITY

National Security Agencies

145. (1) There shall be the National Security Agencies 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 Agencies in Lesotho.

(2) The National Security Agencies shall be structured and regulated by Acts of Parliament.

(3) There shall be no other Security Agencies except those established under this Constitution.

(4) Parliament may make provision for the registration and operation of private security companies, which shall conform to national laws.

(5) Private military companies shall not be registered or allowed to operate in Lesotho.

(6) Parliament shall exercise oversight of the National Security Agencies as may be prescribed by an Act of Parliament.

Principles governing the National Security Agencies

146. (1) National security shall be promoted and guaranteed in accordance with the following principles-

- (a) National Security Agencies shall be subject to democratic control as established by this Constitution and any other law;
- (b) National Security Agencies and their personnel shall be patriotic, competent, professional, and disciplined;
- (c) National Security Agencies shall be gender sensitive and inclusive.

(2) In performing their functions and exercising their powers, the National Security Agencies 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 Agencies shall not-
- (a) take up any other employment without due authorisation;
 - (b) not obey or act upon a manifestly unlawful order;
 - (c) associate with violent extremism, participate, or engage in any criminal activities;
 - (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 Agencies 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 Agencies.

Development of National Security Policy

147. (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.

- (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 Agencies 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.

National Security Council

148. (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 defence, police, national intelligence, correctional, 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 Intelligence Service;
 - (h) the Chief of Lesotho Correctional Service; and
 - (i) the Secretary to the Cabinet 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 King.

(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.

Functions of the Council

149. (1) The Council shall-

(a) oversee-

- (i) the development, implementation, review and dissemination of the National Security Policy and Strategy;
- (ii) the relations, mandate, and cohesion of the National Security Agencies;

(b) advise the Commander-in-Chief on-

- (i) the deployment of the Lesotho Defence Force;
- (ii) matters relating to national security; and
- (iii) the appointment of the members of the National Security Commission;

(c) guard against the politicisation of the National Security Agencies;

(d) ensure the collection of information relating to the security of Lesotho and the integration of the domestic and foreign security policies so as to enable the Security Agencies and other departments of government to co-operate more effectively in matters relating to national security;

- (e) take appropriate measures regarding the consideration of policies on matters of common interest to the departments of the government concerned with national security;
- (f) foster harmony and understanding between the National Security Agencies and civilians;
- (g) coordinate and deal with the affairs of veterans;
- (h) report to Parliament, through the Prime Minister, on a regular basis, on the state of security, as may be prescribed by an Act of Parliament; and
- (i) perform any other functions as may be prescribed by an Act of Parliament.

(2) Any advice tendered to the King under this section shall be in writing.

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

Insertion of new sections 149A – 149M

18. The Constitution is amended by inserting the following new sections after section 149:

“National Security Commission

149A. (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, on the advice of the National Security Council and which shall consist of -

- (a) one member from each House of Parliament nominated by the House he or she represents;
- (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.”.

Functions of the Commission

149B. The Commission shall-

- (a) recommend to the Prime Minister the appointment of the heads and deputy heads of the National Security Services **within the retirement age stipulated in an Act of Parliament;**
- (b) ensure that the promotion policies are adhered to in the National Security Agencies;
- (c) determine on the advice of Heads of National Security Agencies the conditions of service of members of the National Security Agencies;
- (d) ensure effective administration of the National Security Agencies;
- (f) ensure that the National Security Agencies are maintained in a high state of efficiency;
- (g) develop and review the code of conduct for the National Security Agencies;
- (h) ensure that members of the National Security Agencies comply with their code of conduct and any other applicable law; and
- (1) perform such other functions as may be prescribed by an Act of Parliament.

Appointment of heads and deputies of National Security Agencies

149C. (1) The heads and deputies of the National Security Agencies 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 Agency.

(3) The Commission shall recommend three candidates from each National Security Agency 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 Agency.

(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 Agency.

(6) Where there is a vacancy in the office of a head of a National Security Agency, 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 Agency shall not exceed six months.

Lesotho Defence Force

149D. (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.

Functions of the Lesotho Defence Force

149E. (1) The primary function of the Lesotho Defence Force shall be to protect, preserve, and defend the sovereignty and territorial integrity of the Kingdom of Lesotho.

- (2) The Lesotho Defence Force **shall** -
- (a) co-operate with other Security Agencies to maintain security, law and order in the country;
 - (b) co-operate with other state organs and institutions in times of national emergencies and national disasters;
 - (c) be deployed to fulfil an international obligation; and
 - (d) perform any other function as may be prescribed by an Act of Parliament.

Deployment of the Lesotho Defence Force

149F. (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 sub-section (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 3 days.

Lesotho Mounted Police Service

149G. (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.

Functions of the Lesotho Mounted Police Service

149H. (1) The Lesotho Mounted Police Service shall -

- (a) protect life and property, and ensure human security in Lesotho;
- (b) maintain law and order and preserve peace;
- (c) detect, prevent and investigate crime;
- (d) collaborate with international and regional bodies to which Lesotho is party in fostering global, continental, and regional peace that affects the national interests of Lesotho; and

- (e) perform any other function as may be prescribed by an Act of Parliament.

(2) An Act of Parliament shall make provision for the organisation, administration, and discipline in the Police Service, including the appointment of persons to offices or ranks in the Police Service, the removal from office or reduction in ranks, their punishment for breaches of discipline and the regulation of their conditions of service.

(3) An Act of Parliament shall establish a body policing the general behaviour of the Police in their line of duty.

National Intelligence Service

149I. (1) There shall be the National Intelligence Service that shall be responsible for the provision of national intelligence and shall be the only National Intelligence Service in Lesotho.

(2) The command of the National Intelligence Service shall be vested in the Director-General of the National Intelligence Service who shall be answerable to the Prime Minister.

(3) The Director-General shall be responsible for the administration and discipline of the National Intelligence Service.

Functions of National Intelligence Service

149J. (1) The National Intelligence Service shall -

- (a) collect and analyse information, provide, and act on intelligence necessary for the preservation of national order, peace and security;
- (c) counter any covert operations against Lesotho;
- (c) support other National Security Agencies during internal or external operations;
- (d) guard national secrets in the national interest; and

(e) perform any other function as may be prescribed by an Act of Parliament.

(2) An Act of Parliament shall make provision for the organisation, administration, and discipline in the National Intelligence Service, including the appointment of persons to offices or ranks in the Intelligence Service, the removal from office or reduction in ranks, their punishment for breaches of discipline and the regulation of their conditions of service.

Lesotho Correctional Services

149K. (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

Functions of Lesotho Correctional Service

149L. (1) The functions of the Lesotho Correctional Service shall be-

- (a) the protection of society from criminals through the incarceration, rehabilitation, and reintegration into society of persons convicted of crimes;
- (b) the deterrence of offenders through deprivations during periods of imprisonment;
- (c) the administration of correctional facilities;
- (d) to collaborate with international and regional bodies which Lesotho is party to

and other entities in fostering global, continental, and regional peace that affects the national interests of Lesotho; and

- (e) to perform any other functions as may be prescribed by an Act of Parliament.

(2) An Act of Parliament shall make provision for the organisation, administration and discipline in the Correctional Service, including the appointment of persons to offices or ranks in the Correctional Service, the removal from office or reduction in ranks, their punishment for breaches of discipline and the regulation of their conditions of service.”.

Establishment and functions of Independent Security Sector Oversight, Inspectorate and Complaints Authority

149M. (1) There shall be an Independent Security Sector Oversight, Inspectorate and Complaints Authority which shall be an oversight authority for the National Security Agencies in Lesotho.

(2) The Independent Security Sector Oversight, Inspectorate and Complaints Authority shall be answerable to parliament, through a relevant Portfolio Committee.

Composition and appointment

149N. (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 experience, who shall be appointed by the National Security Commission;
- (c) a qualified psychologist **or any other expert as may be prescribed 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;
- (e) 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;
- (e) a former member of the National Intelligence Service, from the rank of Director or above, who shall be responsible for the portfolio relating to the National Intelligence Service;
- (f) 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.

Functions

149O. (1) The functions of the Authority shall be to-

- (a) oversee the conduct of the security agencies in relation to their members and members of the public;
- (b) carry out inspections and investigate complaints from members of the public with regard to the conduct of the members of the security agencies and take appropriate remedial action, which shall be prescribed by an Act of Parliament; and
- (c) perform such other function as may be prescribed by an Act of Parliament.

(2) Parliament may make provision for a Secretariat to assist the office of the Inspector General in carrying out its functions in terms of this Constitution.”.

Insertion of new Chapter XIIC: The Media

19. The Constitution is amended by inserting the following new Chapter after Chapter XIIB:

“CHAPTER XIIC

MEDIA

PART A: GENERAL PRINCIPLES

General principles

149A. (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.

PART B: MEDIA COUNCIL OF LESOTHO, INDEPENDENT COMMUNICATIONS AUTHORITY AND LESOTHO PUBLIC BROADCASTING CORPORATION

Media Council of Lesotho

149B. (1) There shall be a Media Council of Lesotho which shall be an independent body that regulates the entire 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.

Settlement of disputes in the media sector

149C. (1) There shall be an office of the Media Ombudsman.

(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 prescribed by an Act of Parliament.

(3) The Media Ombudsman shall hold office for a period of 5 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.

Qualifications for Appointment

149D. (1) A person shall be appointed as Media Ombudsman if he or she-

- (a) is an indigenous Mosotho;
- (b) does not take active part in party politics; and

- (c) is a person of high moral integrity and possesses the relevant experience and qualifications as prescribed in an act of Parliament.

General Principles of Public Broadcasting

149E. (1) Public broadcasting in Lesotho shall be based on the following principles:

- (a) public broadcasting shall safeguard, enrich and strengthen the cultural, political, social and economic interests of Lesotho;
 - (b) the public broadcaster in Lesotho shall operate in the public interest and shall not act in a partisan manner;
 - (c) further any interest of a political party or cause; or
 - (d) prejudice a political interest or political cause that is legitimate under this Constitution.
- (2) Programming provided by the public broadcaster shall-
- (a) provide balanced information, education and entertainment, meeting the broadcasting needs of the entire population in terms of age, race, gender, religion, interests and other backgrounds;
 - (b) be varied and offer a range of content and analysis from a Lesotho perspective;
 - (c) be drawn from local and international sources; and
 - (d) provide a reasonable, balanced opportunity for the public to receive a variety of points of view on matters of public concern.

Lesotho Public Broadcasting Corporation

149F. (1) There shall be the Lesotho Public Broadcasting Corporation, which shall be the only public broadcaster in Lesotho.

- (2) The Public Broadcasting Corporation shall-
- (a) be a body corporate with perpetual succession;
 - (b) have a common seal;
 - (c) sue and be sued in its corporate name;

- (d) be capable of acquiring, holding, maintaining and disposing off property in its corporate name for purposes of exercising its functions under this Constitution and an Act of Parliament; and
- (e) perform such other acts as may prescribed by an Act of Parliament.

(3) The Corporation shall be accountable to Parliament through the Minister responsible for Communications.

Governance and composition of Lesotho Public Broadcasting Corporation

149G. (1) There shall be a Board of Directors of the Lesotho Public Broadcasting Corporation, which shall be-

- (a) the governing body of the Corporation; and
- (b) responsible for the general administration of the affairs and business of the Corporation.

(2) The Board of Directors shall consist of the following:

- (a) nine members, who shall be appointed by the Minister responsible for communications;
- (b) Chief Executive Officer who shall be the head of the Corporation and chief accounting officer;
- (c) Head of Legal Services who shall be Secretary to the Board.

(3) The Board shall, at the first meeting of the Board, elect the Chairperson among members elected under (2) (a).

(4) A member of the Board shall be appointed by Minister responsible for communications on the advice of the selection panel following an open, transparent, competitive and merit-based recruitment process as may be prescribed by an Act of Parliament.

(5) A Board member shall hold office for a term of four years, which may be renewable once upon satisfactory performance.

(6) An Act of Parliament shall make provision for the establishment of the Secretariat to assist the Corporation in the exercise of its functions under this Constitution.

Insertion of new section 153A: International law and agreements

20. The Constitution is amended in section 153, by inserting the following section:

“International law and agreements

153A (1) The Executive branch of Government shall be responsible for initiating, negotiating, signing, acceding to and ratifying international agreements.

(2) Notwithstanding subsection (1), the Executive shall not sign, ratify, or accede to an international agreement unless the Minister responsible for international relations has-

- (a) considered several variables including the implication costs 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 prescribed 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 the national law and enacted by Parliament.

(5) A self-executing agreement approved by Parliament shall not become law unless their provisions are incorporated into the national law.

(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.”.

Amendment of section 154: Interpretation

21. The Constitution is amended in section 154 (5) by deleting paragraph (a).

Amendment of Chapter XV: Transitional and temporary provisions

Amendment of section 156: Existing law and related matters

22. The Constitution is amended in section 156 by deleting subsection (3) and substituting the following:

“(3) All matters that have to be prescribed 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 the 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, the Parliament may extend the period of eighteen months for a further term of eighteen months”.

(3B) The Parliament shall by an Act of Parliament establish a body 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 body referred to in subsection (3) shall-

(a) co-ordinate with the Attorney-General and 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.

Amendment of section 163: Existing public officers

23. The Constitution is amended by deleting section 163 and substituting the following:

“Existing public officers, public offices and institutions

163. (1) A person who was before the coming into operation of this Constitution holding 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.”.

Amendment of Schedules

24. The Constitution is amended by inserting the following new schedules after schedule 3:

Schedule:7

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. Accountant General
20. Director of National Public Prosecutions Authority
21. Member of Security Sector Inspectorate, Oversight and Complaints Authority

