

CONSTITUTION OF LESOTHO (AMENDMENT) BILL, 2000

A BILL

for

An Act to amend the Constitution of Lesotho to establish a mixed member electoral system for the election of members to the National Assembly; to provide for greater independence for the Independent Electoral Commission; and to provide for special provisions for the conduct of the next general election.

ENACTED BY PARLIAMENT OF LESOTHO

1. Short title and commencement

This Act may be cited as the Third Amendment to the Constitution of Lesotho Act, 2000.

- (2) This Act shall come into operation on such date as the Minister responsible for Law and Constitutional Affairs may, by notice published in the Gazette, appoint.

2. Composition of the National Assembly

Section 56 of the Constitution of Lesotho (hereinafter referred to as "the Constitution") is amended by the deletion of the word "eighty" and substituting it with the word "one hundred and thirty"

3. Elections to the National Assembly

Section 57 of the Constitution is amended by deleting subsection (1) and substituting the following subsection:

"(1) The members of the National Assembly shall be elected under a mixed member electoral system that –

- a) is prescribed by legislation,
- b) is based on a national common voters roll,
- c) provides for –
 - i) 65 members to be elected in each of the constituencies contemplated in section 67(1);
 - and
 - ii) 65 members to be elected to 65 seats in accordance with the principle of proportional representation applied in respect of the National Assembly as a whole."

4. Independent Electoral Commission

Section 66 of the Constitution is amended

- (a) by deleting subsections (1) (2) and (3) and substituting the following subsections:

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 administration of public affairs.

In its advice to the King under subsection (1) the Council of State shall submit to him a list of not less than five names,

and for the purpose of enabling the Council of State to select the names of persons to be submitted to the King under this section, 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 as may be determined by the Council a list of not less than five names”.

- b) In section 66(7) by deleting the word “six” wherever it appears and substituting the word “three”
- c) in section 66A(2) by deleting subsection (2) and substituting the following subsection:

“(2) In order to discharge the duties and functions referred to in subsection (1), the 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 so 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.”

- 3) In section 66C is amended by deleting the section and substituting it with the following section:

“66C Subject to the provisions of this Constitution, the Commission shall not be subject to the direction or control of any Minister or other person or authority in the exercise of its functions”

5. Constituencies

The Constitution in section 67(1) is amended by deleting the number ‘eighty’ and its substitution with the number ‘sixty five’

6. Electoral Court

The Constitution is amended –

- (2) (1) in section 69 by the deletion of the phrase “High Court” wherever it appears in the section and substituting the phrase “Electoral Court” by the amendment of section 118(1) by the insertion of the following paragraph after paragraph (a) and before paragraph (b):

“(aA) an Electoral Court;”

- (3) by the insertion of a new Part 3A after section 126 as follows:

“Part 3A

Electoral Court

“Establishment of Electoral Court

126A (1) There shall be established for Lesotho an Electoral Court 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 Electoral Court shall be three Justices of Appeal appointed for that purpose by the King, on the advice of the President of the Court of Appeal and the Judicial Service Commission, and may include acting Justices of Appeal appointed in terms of section 124(5) of the Constitution.

(3) The King, on the advice of the President of the Court of Appeal and the Judicial Services Commission, shall appoint one of the Justices of Appeal as the President of the Electoral Court.

(4) The Electoral Court shall sit only in respect of general elections and for such period during those elections as may be prescribed by legislation.

(5) There shall be no appeal from the decision of the Electoral Court.

High Court to sit as Electoral Court between general elections

126B (1) The High Court shall have the same jurisdiction and powers conferred on the Electoral Court whenever the Electoral Court is not sitting in terms of section 126A(4).

(2) An appeal shall lie against a decision of the High Court acting under the provisions of this.”

(3) by the deletion of the phrase “subject to section 69 of this Constitution,” in section 129(1)(a).

(4) by the insertion of a new subparagraph © in section 131 a follows: “© the President, after consultation with the Electoral Commission, may make rules for regulating the practice and procedure of the Electoral Court.”

7. Transitional arrangements

The Constitution in Part XV is amended by the insertion of a new section 167 after section 166 as follows:

“Transitional arrangements for general election immediately following commencement of Third Amendment to Constitution Act, 2000:

167 (1) Notwithstanding the provisions of section 57, the composition of the National Assembly shall be, for the purposes of the general Electoral for members of the National Assembly immediately before commencement this Act, 2000:

(a) eighty members shall be elected in terms of the constituencies delimited in terms of section 67 immediately before the promulgation of this Act; and

- (b) fifty members elected to seats allocated to political parties in accordance with the provisions of paragraph (c); and
- (c) the seats contemplated in paragraph (b) shall be allocated in accordance with the principle of proportional representation applied in respect of one hundred and thirty seats.”