

Lesotho

Local Government Service Act, 2008

## Local Government Service Regulations, 2011

Legal Notice 85 of 2011

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# Lesotho

## Local Government Service Act, 2008

# Local Government Service Regulations, 2011

## Legal Notice 85 of 2011

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**Commenced on 15 July 2011**

*[This is the version of this document from 15 July 2011.]*

### Part I – Preliminary

#### 1. Citation and commencement

These Regulations may be cited as the Local Government Service Regulations 2011 and shall come into operation on the date of publication in the *Gazette*.

#### 2. Interpretation

(1) In these regulations, unless the context otherwise requires—

"**Act**" means the Local Government Service Act 2008;

"**adopted child**" means a child who is adopted in accordance with the Adoption of Children Proclamation 1952<sup>1</sup> and Sesotho custom;

"**calendar month**" means a period extending from the first day to the last day, of any month of the 12 months of a year;

"**casual officer**" means an officer appointed to perform a specific short term duty, the completion of which terminates his or her employment;

"**child**" means a child born in or out of marriage of a public officer, including a step-child and legally adopted child, who is dependent on the officer, is not married and has not passed his or her 18th birthday;

"**chief executive officer**" means the Town Clerk in the case of an Urban or Municipal Council and a Council Secretary in the case of a Community Council, or District Council;

"**code**" means a code of practice issued by the Minister in accordance with section 25 of the Act;

"**suitability assessment**" means a test used to measure a combination of an individual's competency and abilities to perform a specific job with specific requirements;

"**Commission**" means Local Government Service Commission

"**contract officer**" means an officer who has entered into a written contract of employment with the Local Government Service of the Government of Lesotho;

"**employer**" means the Government of Lesotho represented by a local authority;

"**department**" means a combination of sections providing technical and administrative support to a Council;

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Proclamation No. 62 of 1992

"**dependant**" means a member of a public officer's immediate family or such other relative who depends upon the officer for maintenance as the Minister may determine for the purpose of these regulations;

"**desertion**" means an officer's unauthorized absence from duty for 21 consecutive working days;

"**development assessment**" means a test used to measure an individual's development needs and potential;

"**family**" means a public officer's legal spouse and children as defined in these regulations;

"**head of department**" means an officer who is in charge of a department or an agency under his or her supervision or any other officer designated as such by the Minister;

"**head of section**" means a public officer who is in charge of a section in a council, department or agency;

"**human resource department**" means Human Resource Department of the Local Government Service;

"**medical board**" means the Board established by the Minister responsible for health;

"**medical practitioner**" means a person authorized to practice medicine under the Lesotho Medical and Dental Order 1970;

"**Minister**" means the Minister responsible for local government;

"**Ministry**" means the Ministry of Local Government;

"**pensionable officer**" means an officer who is serving on pensionable terms and is confirmed in his or her appointment;

"**Principal Secretary**" means the Principal Secretary responsible for the Ministry of Local Government;

"**policy**" means a policy formulated and adopted by the Ministry, a department, a council or an agency;

"**salary**" except where a regulation requires, means the basic monetary reward to which the officer is contractually entitled for the performance of regular duties of a position or office, exclusive of allowances, special remuneration, compensation or gratuities;

"**Section**" means a section providing services to the department;

"**Service**" means the Local Government Service.

### 3. Conditions of service under other laws

The provisions of any law relating to conditions of service in the public service that are not covered by these regulations, apply to the extent provided in that law.

### 4. Modification of regulations

If circumstances arise which justify deviation from a provision of, and measure in, a particular regulation which prejudices an officer, the Minister may make a determination or issue a directive that an alternative provision and measure be applied.

### 5. Power to delegate

If a regulation imposes a duty or confers a power on an officer, the officer may, in writing, delegate that power or that duty to a specified officer, and anything done or omitted by the specified officer under



the delegation shall have effect as if done or omitted by the officer upon whom the power or duty was conferred by the regulation.

## 6. Local Government Service forms

The Minister shall prescribe forms to be applicable for the management of the Service.

## Part II – Appointments, staff mobility and termination of appointment

### I – Appointment

## 7. Permanent and pensionable terms

- (1) An appointment on permanent and pensionable terms shall be made by the Commission.
- (2) An officer appointed on permanent and pensionable terms shall serve a probationary period of 12 months, except an officer who has, immediately prior to the appointment, served on contract terms and has, to the satisfaction of the Head of Department, competently performed his or her duties under the contract.
- (3) The officer shall sign a contract, which shall be in such form as the Minister may prescribe, offering appointment, subject to a medical examination by a medical practitioner, in quintuplicate, retain the original and return the 4 copies to the Principal Secretary.
- (4) A Head of Department of a probationer shall ensure that—
  - (a) at the commencement of the 12 months probationary period, the probationer knows the performance and other requirements for obtaining confirmation in appointment; and
  - (b) the probationer, on quarterly basis, is appraised and receives written feedback on his or her performance and compliance with other requirements.
- (5) The Local Government Service Human Resources Department shall ensure that a probationer is oriented and receives formal induction in accordance with the Training and Development Policy of the Ministry.
- (6) The Head of Department or Chief Executive Officer shall, at least 3 months before the expiry of the officer's probationary period, recommend the probationer for confirmation in appointment to the Commission with the concurrence of the Minister if he or she has competently performed his or her duties and obligations during the period of probation.
- (7) If the Head of Department or Chief Executive Officer considers the probationer not fit in terms of performance, he or she may for reasons of poor performance, with the concurrence of the Minister make a recommendation to the Commission for termination of the probationer's appointment after a fair hearing.
- (8) A probationer may, at any time during the probation period terminate the appointment by giving one calendar month notice or pay a month's salary in lieu of notice.

## 8. Confirmation

- (1) At the end of the probation period, the probationer shall be confirmed to a permanent and pensionable appointment if he or she has competently performed his or her duties.
- (2) If at the end of the probation period the confirmation has not been processed, the probationer shall be deemed to have been confirmed.
- (3) Failure on the part of the supervisor to process confirmation of the probationer shall be an offence liable to disciplinary action under the Disciplinary Code.

- (4) The service of all serving officers who were previously appointed by other services of the Government of Lesotho, and were appointed on permanent and pensionable terms prior to their appointment by the Commission shall be regarded as continuous service and shall be governed by the Pensions Proclamation Act of 1964 or the Public Officers defined contribution Pension Fund Act [No 8 of 2008](#).
- (5) Notwithstanding subregulation (4), the service of all serving officers who were previously appointed on permanent and pensionable by other services of the Government of Lesotho and were appointed on a fixed period contract by the Commission shall not be carried forward into Service.
- (6) The terms of all serving officers appointed in the Service on nonclassified terms before the coming into operation of the Act shall be varied to permanent and pensionable terms by the Commission.

## 9. Contract terms

- (1) A contract appointment shall be for a period not exceeding 3 years and shall be made if:
  - (a) the position is for the Town Clerk, District Council Secretary and Community Council Secretary;
  - (b) the position has unique occupational terms and conditions;
  - (c) the position is associated with projects that have a specific ending date;
  - (d) the Minister deems it necessary.
- (2) Notwithstanding subregulation (1), where the Minister considers it necessary he or she may re-engage an officer on another 3 year contract and the Minister shall make the proposal to the Commission.
- (3) An application for a contract appointment shall be made to the Minister by the relevant council, department or agency.
- (4) An offer of appointment on contract shall be classified into local or expatriate and shall be made on the appropriate form.
- (5) The Principal Secretary shall prepare a written contract in a prescribed form which shall specify the terms and conditions of service.
- (6) An officer appointed on contract terms shall sign the contract in sextuple and retain the original as acceptance of terms and conditions set out in that contract.
- (7) Other matters relating to conditions of service for a contract officer shall be as prescribed in the letter of appointment as part of the agreement.

## 10. Casual terms

- (1) Where the Commission has delegated its powers to engage a person on casual terms, the Human Resources Division of a council shall follow the recruitment procedure outlined in Part II and recommend to the Chief Executive Officer to approve the appointment.
- (2) A casual officer may be appointed if there is a need to employ a person to perform some specific work, the completion of which shall terminate the appointment.
- (3) An employee on casual appointment shall be paid on daily wages rate and the wages shall be proportionate to days of work.
- (4) A casual employee shall be engaged for a period of 30 days which may be extended for a period not exceeding 3 months.

**11.**

A recruitment and selection policy made pursuant to section 12(2)(b) of the Act shall be adhered to by all officers involved in the recruitment and selection process.

**12. Employment process**

The process of employment shall be fair, equitable and aligned to the Act and regulations and government policies.

**13. Recruitment against established positions**

Recruitment shall be against an established position and in accordance with the job description and requirements of the specified job.

**14. Advertisement of positions and screening of applications**

The Local Government Service Human Resources Department shall—

- (a) cause vacant positions within the relevant department, council or agency to be advertised as efficiently, effectively and widely as possible through circulars and available media, so as to reach the entire pool of potential applicants;
- (b) screen all applications in line with the relevant job requirements and conduct preliminary interviews for candidates who meet the job requirements for all positions on Grade F and below.

**15. Competency assessment**

- (1) An applicant for a position at Grade G which is not an entry level and above who meets the job requirements of a specified job shall undergo a competency assessment.
- (2) The competency assessment shall be approved by the Local Government Service Commission and shall only be performed by professional and certified assessors.
- (3) All competency assessment decisions shall be recorded, filed and stored for 5 years after which they shall be destroyed.

**16. Short-listing of candidates**

- (1) A shortlist of applicants, based on a preliminary interview or assessment results shall be prepared by the Human Resources Department, in consultation with the relevant Council or departmental head and approved by the Principal Secretary and the Minister accordingly.
- (2) The approved shortlist shall be submitted to the Commission for determination.

**17. Selection of best candidate**

The Commission shall make the final selection of the best candidate and advise the candidate, the Ministry, the relevant council, department or agency.

**18. Expenses incurred for purposes of interview on first appointment**

- (1) A candidate for first appointment, who is required to appear for interview, shall be reimbursed the costs incurred by him or her with respect to the interview.
- (2) The costs shall include transport to and from the place of interview, food while at the place of interview, and lodging if he or she is compelled to spend the night at the place of interview.

**19.**

An offer of appointment shall be made to the successful candidate in such form as the Minister may prescribe.

**20. Assumption of duty**

- (1) The successful candidate shall report for duty within a period of 30 days from the date the offer of appointment was made.
- (2) Where the candidate cannot report for duty within the specified time he or she shall contact the Local Government Service Human Resource Department in the Ministry to make alternative arrangements.

**21. Development assessment**

- (1) A candidate entering the Service on Grade F or G, if it is an entry level, shall undergo a development assessment to determine the candidate's potential, competency profile and suitability to perform in a certain career or job.
- (2) The development assessment shall only be used for proper placement, establishment of training needs and future career development.

**22. Delegation of power to appoint officers**

The Commission may, by directions in writing and subject to such conditions as it deems fit, delegate any of its powers under section 22(e) of the Act to a local authority, with the consent of the Minister, to engage employees on casual terms.

**23. Medical examination**

- (1) An offer of appointment shall not be made to a person unless the person submits a certificate of medical fitness obtained from a registered medical practitioner or hospital to the Principal Secretary.
- (2) A person referred to in subregulation (1) shall not be required to undergo an HIV test.

**24. Oath of office and secrecy**

- (1) A public officer shall, before assumption of duty, take an oath of office and secrecy which shall be in such a form as may be determined by the Minister.
- (2) A public officer shall be responsible for the protection and confidentiality of classified or secret information.
- (3) A public officer who discloses information which is in his or her protection and confidentiality commits a breach of discipline which shall be dealt with under the Disciplinary Code.

**25. Posting on first appointment**

Subject to the provisions of the Act and these regulations an officer may be posted to any council in Lesotho.

**26. Next of kin and beneficiary**

An officer on first appointment shall notify, on the relevant form, his or her Head of Department of the name and address of his or her next-of-kin and beneficiary and any subsequent changes, which shall be recorded in the officer's personal file.

## 27. Secondment appointment

- (1) The Principal Secretary may, with the concurrence of the Minister, nominate an officer in Service to be seconded to an organization outside the Service for a period not exceeding 3 years, if the secondment has direct benefits to the Ministry, department or agency and such secondment shall be made with the consent of the officer.
- (2) Notwithstanding subregulation (1), an officer who wishes to be seconded may make an application to the Principal Secretary who shall seek the concurrence of the Minister.
- (3) The Head of Department shall, after receiving concurrence in terms of subregulations (1) and (2), process the nomination or application with the Commission.
- (4) Where the Commission has authorised the secondment, the secondment shall run for a period of one tour (3 years), and thereafter the seconded officer shall return to his or her substantive post or similarly graded position in the Service.
- (5) Notwithstanding subregulation (4), a second consecutive tour, which shall also serve as the last tour, may be approved upon recommendation by the Minister.
- (6) A seconded officer shall ensure that he or she contributes to his or her pension in accordance with the pension law during the period of the secondment.
- (7) The terms and conditions of secondment shall be clearly spelt out in the letter of secondment or on a relevant form.

## 28. Acting appointment

- (1) An officer may be appointed to act for a period not exceeding 3 months, in a post that is in his or her direct line of promotion in the event that the holder of the post is granted leave of absence or to perform those duties in the event that the position is substantively vacant while recruitment is underway.
- (2) Where a vacant position is to be filled in an acting capacity, the Human Resource Department shall submit the proposal to the Commission in accordance with the procedure set out in the Commission Rules.

## 29. Special assignment

- (1) An officer may be temporarily assigned duties of a different or similarly graded position within the Service for a period not exceeding 3 years and thereafter the officer shall return to his or her substantive post or similarly graded position.
- (2) Notwithstanding subregulation (1), an officer may be assigned to a non political position (including that of a secretary or a chauffeur) in the office of a Government Minister the duration of which shall be upon the Minister's tenure of office.
- (3) Terms and conditions relating to employment of an officer on special assignment shall be as set out in the officer's letter of appointment.

## 30. Ministerial appointment

- (1) An Officer who wishes to be appointed to a political position, including that of a private secretary or personal aide, in the office of a government minister shall vacate his or her position by resignation or retirement before assuming responsibilities of the government minister's personal staff position.
- (2) The appointment of an officer to any government minister's personal staff is upon the Minister's tenure of office and the officer's engagement shall cease along with that of the Minister.

- (3) Terms and conditions relating to employment of an officer under this regulation shall be as set out in the officer's letter of appointment.
- (4) Upon termination of an appointment of an officer appointed to a political position the officer may be considered for appointment, upon application, to a non-political position in the Service if he or she meets the requirements of the job.

## **II – Staff mobility**

### **31. Promotions**

- (1) Promotions within the Local Government Service shall be based on merit and, among other things, appropriate and relevant experience, consistent, good performance and good conduct and availability of vacant positions.
- (2) Notwithstanding subregulation (1), promotions shall be made through preliminary interviews or competency assessment where appropriate.
- (3) An officer who is not confirmed in appointment shall not be eligible for promotion.

### **32. Transfer of officers**

- (1) The Principal Secretary may transfer an officer within the Local Government Service with the concurrence of the Minister and in consultation with the Chief Executive Officer of the receiving Council.
- (2) The Principal Secretary may, with the concurrence of the Minister, transfer an officer from the Local Government Service to another service and such transfer shall be authorised by the Commission acting in consultation with the receiving appointing authority.
- (3) A Chief Executive Officer may transfer an officer within a council.
- (4) In instances where the transfer is to another Council, the Chief Executive Officer of the Council shall consult with the Chief Executive Officer of the receiving Council, who shall also seek the concurrence of the Minister, and such transfer shall be authorised by the Principal Secretary.
- (5) An officer is liable to be transferred to work anywhere in the Local Government Service of Lesotho.
- (6) The Chief Executive Officer or Head of Department shall, before transferring an Officer to a new duty station which is a distance of 40km or more from his or her old duty station, notify the officer of the transfer at least 3 months before the date of transfer.
- (7) Notwithstanding subregulation (6), an officer is liable to immediate transfer if it is necessary for operational requirements.
- (8) An officer shall comply with the requirements of the transfer.
- (9) An officer may be transferred temporarily for a period not exceeding 3 months, but if the exigencies of the work so require the transfer may be extended for another 3 months.
- (10) An officer who fails to comply with the instructions to be transferred is liable for a disciplinary action in accordance with the Disciplinary Code.
- (11) An officer on transfer is entitled to transport for himself or herself and his or her family and effects.

### 33. Compensation for damages on transfer

Where an officer incurs loss of or damage to property in the course of the transfer, the Principal Secretary may authorise compensation to the officer for the loss or damage, if satisfied that—

- (a) the damage did not occur as a result of negligence or carelessness on the part of the officer in the removal, delivery or acceptance of the effects;
- (b) the packers or carriers cannot be held liable for the damage or loss;
- (c) the damage has been assessed by some impartial and qualified person, whose assessment is furnished with the claim; and
- (d) the probable cause of damage or loss is as set out in a full statement furnished with the claim by the officer.

### 34. Redeployment

- (1) A public officer may be redeployed within the Local Government Service to a different position which is in line with his or her qualifications for reasons including the following:
  - (a) ill health;
  - (b) abolition of a department or the position is redundant;
  - (c) the officer is found to be misplaced in his or her current position or is underutilized;
  - (d) operational requirements for efficiency and effectiveness of the Service and economic factors.
- (2) Redeployment shall be authorised by the Commission.

## III – Termination of appointment

### 35. Voluntary and compulsory retirement

- (1) An officer shall retire from the Service on attaining the age of 60 years.
- (2) A public officer may, by written notice to his or her Head of Department, voluntarily retire from the Service on attaining the age of 55 years.
- (3) Notwithstanding subregulation (2)—
  - (a) an officer on Grade I and above shall give 3 months' notice or pay an amount in cash in lieu of notice, which shall be equivalent to his or her basic salary;
  - (b) the appointment may be terminated in accordance with the officer's letter of appointment.

### 36. Retirement on medical grounds

- (1) The Minister responsible for Health shall, for the purpose of this regulation, appoint a Medical Board.
- (2) If the Head of Department or Chief Executive Officer is of the opinion that an officer is incapable of performing his or her duties by reason of infirmity of body or mind, with concurrence of the Principal Secretary submit a report to the Medical Board, which shall be in such a form as the Minister of Health may determine, and shall spell out the extent of incapacity in relation to the job.
- (3) The Medical Board shall enquire into the officer's physical or mental condition and submit its findings and recommendations to the Commission for consideration and final determination.

- (4) An officer may be required to present himself or herself to the Medical Board for assessment and to afford the officer an opportunity to make representations to the Medical Board.
- (5) If an officer does not comply with subregulation (3), the fact shall be reported to the Commission which shall make a decision.

### **37. Resignation**

- (1) An officer serving on pensionable terms may resign his or her appointment by giving one calendar month's notice or paying an amount in cash in lieu of notice, which shall be equivalent to his or her basic salary.
- (2) Notwithstanding subregulation(1), an officer on Grade I or above shall give 3 months' notice or pay an amount in cash in lieu of notice, which shall be equivalent to his or her basic salary.
- (3) An officer serving on contract may resign his or her appointment in accordance with the relevant provision in his or her letter of appointment, and where no provision is made; the officer shall give at least one month's notice or make payment of an amount, in cash, equivalent to one month's basic salary.
- (4) An employee serving on casual terms may resign his or her engagement by giving 24 hours notice or making payment of an amount equivalent to the daily wage.
- (5) Notice under this regulation shall be given to the Head of Department or the Chief Executive Officer who shall, with the concurrence of the Minister, submit it to the Commission for approval.
- (6) Subregulation (5) shall not apply to employees engaged on casual terms.
- (7) Where an officer who has been charged with a breach of discipline resigns from the service before the charge has been dealt with to finality in accordance with the provisions of the Disciplinary Code, the disciplinary proceedings on the charge of breach of discipline shall continue against him or her notwithstanding the officer's resignation.

### **38. Dismissal**

The Principal Secretary or Chief Executive Officer may terminate a local government officer's appointment by way of dismissal for misconduct after a fair hearing.

### **39. Terminal benefits**

- (1) An officer who is dismissed from, or deserts, the public service forfeits his or her terminal benefits.
- (2) Notwithstanding subregulation (1), where an officer has contributed to a Contributory Pension Scheme, the officer shall be entitled to only his or her contributions together with the compound interest at the current rate.

### **40. Death of an officer**

The estate of an officer whose appointment has been terminated by death shall be entitled to death benefits applicable at the time of death.

### **41. Certificate of service**

A certificate of service shall be issued to an officer, on request, when the officer leaves the Local Government Service and shall be in such form as the Minister may prescribe.



## **Part III – Remuneration, benefits and allowances**

### **I – Remuneration**

#### **42. Remuneration policy**

A remuneration policy made pursuant to section 12(2)(c) of the Act shall provide guidelines for job analysis, job descriptions and job profiling and shall be adhered to by a department, a council and an agency.

#### **43. Job evaluation and grading system**

All jobs shall be subject to evaluation and grading by the Ministry.

#### **44. Salary entitlement and payment**

A public officer shall be entitled to a salary for services rendered as shall be determined by the Minister after consultation with the Minister of Finance which shall be as set out in the establishment list in respect of the office and shall be paid in accordance with the Financial Regulations 1973.

#### **45. Incremental credit on first appointment**

The Principal Secretary shall, in consultation with the Minister, award incremental credit on first appointment for previous relevant experience or recognized additional qualifications in order to aid recruitment through flexible remuneration packages.

#### **46. Salary on promotion**

- (1) An officer promoted to a vacant office shall receive a salary of the new office from the date on which the officer takes up duty in that office.
- (2) If on promotion the officer's old salary is equal to or above the minimum of his or her new salary grade, the officer shall enter that grade at the next point above the salary of his or her old grade.

#### **47. Salary during absence without permission**

- (1) If an officer absents himself or herself from duty without permission, the principle of no work no pay shall apply without prejudice to any disciplinary action which may be undertaken under the Disciplinary Code.
- (2) If an officer is aggrieved by an action under subregulation (1), the officer may institute an action in accordance with the grievance procedure set out in the Grievance Code.

### **II – Benefits**

#### **48. Determination on types of benefits**

- (1) The Minister shall, in consultation with the Minister responsible for finance, determine benefits for Local Government Officers.

#### **49. Car loan scheme**

- (1) An officer who has been confirmed in permanent and pensionable appointment or serving on contract terms who requires a motor vehicle for private use, is eligible for a loan for the purpose of

purchasing a motor vehicle in accordance with the Remuneration and Benefits policy to be made by the Minister.

- (2) For the purpose of this regulation, an officer appointed on secondment shall be regarded as holding such an office substantively for the purpose of qualifying for a loan.
- (3) Subregulation (1), does not apply to an officer who has another existing car loan with a financial institution.
- (4) The Minister shall determine the maximum entitlements for car loans.

#### **50. Housing loan guarantee scheme**

- (1) An officer who wishes to purchase a house, complete an ongoing house construction, build a new house or renovate a house is eligible for a mortgage loan in accordance with the Remuneration and Benefits policy to be made by the Minister.
- (2) An officer who—
  - (a) is appointed on permanent and pensionable terms and has been confirmed in appointment;
  - (b) is serving on contract terms, and is eligible for gratuity to secure the amount guaranteed by the Government;
  - (c) has a satisfactory disciplinary record and does not have a pending disciplinary case;
  - (d) does not have another existing mortgage loan with a financial institution, is eligible for a housing loan from a financial institution.
- (3) The Minister shall determine the maximum entitlements for housing loans.

#### **51. Medical aid scheme**

An officer serving on pensionable or contract terms of service shall be eligible to join a medical aid scheme, where such scheme exists, within the Service to which both the Local Government and the officer shall contribute a percentage to be determined by the Minister in consultation with the Minister responsible for finance on condition that the officer is not excluded by the rules and regulations.

#### **52. Contributory pension fund**

- (1) An officer serving on permanent and pensionable terms, who is 45 years and below shall be eligible to join the Public Officers Contributory Fund established by the Public Officers' Defined Contributory Fund Act 2008.
- (2) Notwithstanding subregulation (1), an officer serving on permanent and pensionable terms who is above the age of 45 years may opt to become a member of the fund in a manner to be set out by the Minister responsible for finance.

#### **53. Utilization of government vehicles**

- (1) A Head of Department or Chief Executive Officer shall ensure that after normal working hours, over weekends and during holidays all official vehicles are parked.
- (2) Notwithstanding subregulation(1), the Head of Department or Chief Executive Officer may issue a special permit authorizing utilization of vehicles for official purposes after normal working hours, over weekends and during holidays with approval of the Principal Secretary or District Administrator of the relevant District.
- (3) Any Government vehicle traveling without a permit outside official working hours shall be confiscated by a police officer-in-charge and disciplinary action shall be taken against an officer who is found to have misused a Government vehicle and the officer's Head of Department or Chief Executive Officer.

#### **54. Management of benefits**

The Minister shall develop policies and procedures for the management of the benefits in the Local Government Service.

### **III – Allowances**

#### **55. Determination of allowances**

- (1) The Minister, with the advice of the Minister responsible for finance shall determine allowances for the officers.
- (2) An allowance shall not be regarded as salary and shall not form part of the calculations when determining pension and gratuity.

#### **56. Acting allowance**

An acting allowance is payable to an officer who is appointed to act in a senior office in the absence of its substantive holder of that office in accordance with regulation 27.

#### **57. Local subsistence allowance**

- (1) Local subsistence allowance is payable to an officer who spends a night away from his or her duty station.
- (2) When periods of absence on duty do not include a night away from the officer's duty station, reasonable out-of-pocket expenses incurred during such periods shall be reimbursed, if the claim is supported by receipted bills.

#### **58. Entertainment allowance**

The Principal Secretary, with the concurrence of the Minister and in consultation with the Minister responsible for finance shall, at the beginning of every financial year, issue a list of offices eligible for entertainment allowance.

#### **59. Hardship allowance**

- (1) Hardship allowance shall be payable to officers stationed in the areas determined by the Minister of Local Government as hardship areas.
- (2) The Principal Secretary shall issue the list of hardship areas.

#### **60. International subsistence allowance**

- (1) International subsistence allowance shall be paid to an officer who has to travel outside Lesotho on official duty.
- (2) If the officer attends a meeting or conference that is fully sponsored by the host country or organization, the Government of Lesotho shall pay such officer 25 % of the country's per diem to take care of incidental out-of-pocket expenses.
- (3) Where the meeting or conference is not sponsored by the host country or organization, the Government of Lesotho shall pay such officer the full rate of the country's per diem to take care of incidental out-of-pocket expenses.

## 61. Training allowance

- (1) Training allowance shall be paid to an officer who is proceeding on a training programme outside the country in order to take care of the officer's incidental out of pocket expenses during the period of training.
- (2) If the officer attends a course that is fully sponsored by the host country or an organisation, the Government of Lesotho shall pay such officer 10% of the country's per diem to take care of incidental out-of-pocket expenses.
- (3) Where the course is not sponsored by the host country or organization, the Government of Lesotho shall pay such officer the full rate of the country's per diem to take care of incidental out-of-pocket expenses.
- (4) If the officer is sponsored by the Government of Lesotho, payment shall be made in accordance with the guidelines as determined by the Minister.

## 62. Dependant's allowance

An officer who is on study leave is entitled to full salary for the first 6 months and thereafter dependants allowance at half the salary for the remainder of the training period.

## 63. Baggage allowance

An officer selected for a long term training abroad shall, when returning to Lesotho, be entitled to an allowance of excess baggage if—

- (a) the allowance shall not exceed the cost of transporting 50 kilograms of excess baggage accompanying the officer by air(whether the baggage accompanies the officer on his or her journey or not); and
- (b) an additional allowance shall be payable to the officer in respect of surface transport of excess baggage not exceeding 120 kilograms in weight on return journey only.

## 64. Sitting allowance

An officer selected to be a member of a board, tribunal or other ad hoc or an administrative body created by law is entitled to a sitting allowance if he or she is not an *ex-officio* member.

## 65. Motor mileage allowance

Motor mileage allowance is payable to an officer who is authorised to use his or her motor vehicle for duty purposes, only to the extent of the authority given by the Head of Department or Chief Executive Officer.

## 66. Equine allowance

Equine allowance is payable to an officer who is authorised to use his or her horse for the performance of his or her duties, only to the extent of authority given by the head of department or Chief Executive Officer.

## 67. Retention allowance

Retention allowance is payable to an officer with scarce skills for retention purposes and shall cease to be paid once the skill is declared not a scarce skill any more.

**68. Other allowances**

- (1) All allowances that constitute the compensable factors of each job shall cease to be paid on coming into operation of these regulations.
- (2) On coming into operation of these regulations, all other allowances shall be determined by the Minister in consultation with the Minister responsible for finance.

**69. Claims for allowances**

The Principal Secretary shall make provision for procedures for claiming allowances.

**Part IV – Leave****70. Annual leave**

- (1) The Minister shall determine the number of leave days an officer is entitled to per annum.
- (2) A Head of Department or Chief Executive Officer shall ensure that leave rosters for his or her Department or Council are kept, maintained as auditable official record.
- (3) An officer shall agree with his or her Sectional Head at least 3 days prior to proceeding on leave and the Head of Department or Chief Executive Officer shall ensure that the interests of the Service are not prejudiced by granting of leave in individual cases.

**71. Leave year**

The leave year shall run concurrently with the financial year of the Government.

**72. Non accumulation of leave**

- (1) Annual leave shall be taken during the current leave year.
- (2) Leave not taken during the current leave year shall not be carried forward to the next year, except in special cases on the authority of the Principal Secretary.
- (3) Leave authorized to be carried forward shall not be allowed to accumulate beyond a quarter of the entitlement and shall be utilized in the next leave year failing which it shall be forfeited.

**73. Payment in-lieu of leave**

No payment in lieu of leave shall be made except in the case of the officer's death.

**74. Days of rest for officer on long-term training**

An officer on long term training shall not be entitled to leave but upon return from the training may be granted 10 working days leave before resuming his or her duties.

**75. Compassionate leave**

The Minister shall determine the number of days to be granted to an officer on compassionate grounds.

**76. Sick leave**

The Minister shall determine the number of days to be granted to an officer who is absent from work on medical grounds.

**77. Maternity leave**

The Minister shall determine the number of days to be granted to an expectant female officer for maternity purposes.

**78. Paternity leave**

- (1) An officer shall be granted paid paternity leave for a period not exceeding 10 working days excluding Saturdays, Sundays and declared public holidays.
- (2) Paternity leave shall be granted in a legal marriage setting.

**79. Unpaid leave**

The Minister shall determine the number of days to be granted to an officer who requested unpaid leave for reasons that need his or her attention if the officer has expended all his or her annual leave.

### **Part V – Performance management**

**80. Performance management system**

- (1) The Principal Secretary shall, in Consultation with Minister, establish a Performance Management System in the Local Government Service whose main purpose shall be to enhance officers' performance and productivity.
- (2) Heads of Departments or Chief Executive Officers and Agencies shall be responsible and accountable for the effective application of the Performance Management System in their respective jurisdictions in accordance with the guidelines set out by the Principal Secretary and approved by the Minister.

**81. Performance contracts**

An officer shall enter into a performance contract with the immediate supervisor.

**82. Operational plans**

- (1) A council, a department and an agency shall prepare an annual operational plan which shall, among others, set out the objectives and activities of the council, department or agency in accordance with the objectives stipulated in the development plan as approved by the Ministry.
- (2) At the beginning of a financial year, a council, a department and an agency shall align its budgetary planning with its operational plan.

**83. Individual work plan**

An officer shall, with his or her immediate supervisor prepare an individual work plan for each financial year based on the job description and individual assignments of the officer linked to the operational plan of the council, department or agency.

**84. Performance appraisal**

- (1) Performance review shall be carried out at least twice a year.
- (2) An officer on grade H or above shall be evaluated by a subordinate once a year.

**85. Performance rewards**

- (1) The Minister shall, in consultation with the Minister responsible for finance, determine performance related pay to be awarded to officers each year.
- (2) Automatic annual increment shall cease to exist and shall be replaced by performance related pay upon coming into operation of these regulations.

**Part VI – Organisational development****86. Communication**

- (1) The Principal Secretary shall develop internal and external communication systems for a council, a department and an agency.
- (2) A council, a department and an agency shall hold a management meeting at least once every month.
- (3) An officer shall not directly or indirectly reveal or use for private purposes any information or communication otherwise than in the proper discharge of the officer's duties.

**87. Reporting**

Councils, departments and agencies shall report progress against objectives through quarterly and annual reports.

**88. Monitoring and evaluation**

- (1) Councils, departments and agencies shall, at least twice a year submit quarterly progress reports to the Ministry of Local Government and Chieftainship to enable the Principal Secretary to monitor and evaluate performance delivery in the Local Government Service.
- (2) The Principal Secretary shall, on the advice of the Director General, collate the reports with emphasis on achievements and constraints.

**Part VII – Training and development****89. Training and development policy**

Pursuant to section 12(2)(b) of the Act, there shall be a Training and Development Policy developed by the Ministry whose main objective shall be to provide and maintain clear guidelines, that promote consistent decisions in the management of training and development.

**90. Training and development plans**

- (1) Training and development within the Local Government Service shall be in line with the national goals and priorities.
- (2) All Councils, departments and agencies shall undertake Training Needs Assessment to determine their priorities and prepare their training and development plans, which shall, at the beginning of every year, be submitted to Ministry.
- (3) No training or development programme other than that appears in the Ministry's annual training plan shall be allowed or funded except with a written approval of the Head of Department and the concurrence of the Minister.

**91. Types of training**

- (1) Training and development may be carried out in the following forms—
  - (a) short-term;
  - (b) long-term;
  - (c) on-the-job-training involving rotation, in-house training, attachment, part time, induction, exchange programmes and study tours which shall be of limited duration, and shall be defined in the Training and Development Policy.
- (2) Without limiting the generality of subregulation (1), the Minister may determine other forms of training.

**92. Eligibility for training and development**

- (1) An officer is entitled to training and development.
- (2) Notwithstanding subregulation (1), where a decision is made on the type of training and development an officer shall undertake, the needs of both the officer and the organization shall be taken into account, but the organizational needs shall take precedence.

**93. Study leave for training and development**

- (1) An officer may apply for study leave for a long-term training if the officer has satisfactorily completed his or her 12 months probationary period and is confirmed in appointment.
- (2) Long-term training shall be in line with the officer's career development and the needs of the Local Government Service.
- (3) The application for long-term training shall first have the concurrence of the head of Department or Chief Executive Officer responsible for the relevant Council before its submission to the Minister for approval.
- (4) An officer who is aged 50 years and above is eligible for study leave if the officer shall be able to serve his or her bonding agreement.
- (5) A contract officer is only eligible for short-term and part-time training on approval by the Minister.
- (6) An officer who proceeds on study leave before his or her study leave is approved by the Minister shall be deemed to have deserted the Local Government Service and is therefore liable for disciplinary action.
- (7) An officer on study leave is not entitled to a full salary on vacation and if such an officer renders services during this period he or she shall continue to draw dependants allowance until training has been completed.
- (8) Notwithstanding subregulation (7), an officer may be paid allowance for services rendered and such payment shall be determined by the Minister.

**94. Bonding agreement**

- (1) A public officer shall, prior to proceeding on study leave, enter into a bonding agreement with the Government to the effect that the officer shall serve the Local Government Service as stipulated in the bonding agreement.
- (2) The agreement shall duly be signed by the officer and his or her guarantor.
- (3) If an officer terminates his or her appointment for any reason before the bonding period expires, he or she shall pay, forthwith, the outstanding amount of the loan, which shall be the officer's gross



salary multiplied by the bonding period not served plus interest at the rate to be determined by the Minister with the advice of the Minister responsible for finance, less the amount paid while on study leave.

- (4) Councils, departments or agencies shall ensure that the emoluments are paid into appropriate accounts.
- (5) If the officer deserts the Local Government Service and cannot be traced, the guarantor shall be liable to pay the money owed to the Government or forfeit the guarantee.
- (6) The provisions of this regulation shall not apply to an officer who is attending a short-term (less than 6 months) in-service-training programme.
- (7) Death of the officer terminates the bonding agreement and the balance owed shall be written off.
- (8) Legal action shall be instituted against an officer and or a guarantor who fails to comply with this regulation.

#### **95. Sponsored programmes**

- (1) An officer shall not accept a scholarship award or an invitation to attend a seminar or training course outside Lesotho or at a non-governmental institution within Lesotho without the approval of the Head of Department of the relevant Council, department or agency and concurrence of the Minister.
- (2) Except where an officer is selected and nominated by the Government for a scholarship or invitation under subregulation (1), an officer who wishes to apply for a scholarship or attend a training course shall make an application which shall be approved by the Minister.
- (3) Application shall be considered if the scholarship or training course is relevant to the duties of the post the officer concerned is occupying or is reasonably likely to occupy and will enable him or her to perform those duties.

### **Part VIII – Miscellaneous**

#### **96. Legal proceedings against officers**

- (1) In civil and criminal cases, if an officer knows or is informed that legal proceedings are to be taken against him or her, he or she is to inform the Head of Department or Chief Executive Officer forthwith.
- (2) If it appears to the Head of Department or Chief Executive Officer that the proceedings relate to an act or omission of the officer in the course of his or her duty, the Head of Department or Chief Executive Officer shall seek the legal advice on that question and on the question of the institutional responsibility on the matter.
- (3) The Government is not responsible for the fees of a legal practitioner retained privately by an officer.

#### **97. Health and safety**

- (1) The Head of Department or Chief Executive Officer shall—
  - (a) establish and maintain a safe and healthy work environment for officers in his or her Council, department or agency and the officer shall not engage in an activity that threatens the safety of other officers;
  - (b) provide a first aid kit which shall be accessible to all officers at all time during working hours.

**98. Compensation for occupational injuries**

- (1) An officer shall be compensated in respect of personal injury sustained while on duty, or occupational diseases contracted in the course of his or her employment or death resulting from such injuries or diseases if it is established that it is not negligence on the officer's part, and the submission has to be made to the Medical Board which shall determine the extent of the injury.
- (2) Compensation shall be awarded in accordance with the provisions of the Public Officer's Defined Contribution Pension Fund Act 2008 or any other relevant legislation.

**99. Safe custody of government property**

A public officer shall not improperly use property or stores that are for the time being in his or her official custody or control and shall ensure safe custody of such property or stores.

**100. Private employment and private interests**

- (1) Except with the approval of the Minister, an officer shall not undertake remunerative or unpaid work outside his or her official duties or use office equipment for such work.
- (2) Nothing in this regulation shall be construed as preventing an officer from becoming a member or shareholder only, of a company or society of persons registered under any law.

**101. Disclosure of interests by officers**

- (1) For the purposes of this regulation the following kinds of financial interests are registerable interests—
  - (a) shares and other financial interests in private or public companies and other corporate entities recognized by law;
  - (b) directorships and partnerships;
  - (c) remunerative work outside the service;
  - (d) consultancies and retainerships;
  - (e) sponsorships;
  - (f) gifts and hospitality from a source other than a family member; and
  - (g) ownership and other interests in land and property, whether inside or outside Lesotho.
- (2) All officers shall, not later than 30 April of each year, disclose to the Head of Department, on such form as the Minister may determine, particulars of all his or her registerable interests in respect of the period from 1 April of the previous year to 31 March of the year in question.
- (3) An officer who assumes duty after 1 April in a year shall make such disclosure within 30 days after assumption of duty.
- (4) The Head of Department or Chief Executive Officer shall submit, to the Directorate of Corruption and Economic Offences, a copy of the form not later than 31 May of the year in question or not later than 30 days after it has been submitted.
- (5) An officer who fails to disclose an interest in terms of this regulation or willfully provides incorrect or misleading information commits misconduct, and if found guilty is liable to disciplinary action or a criminal charge or both.

## 102. Discipline in the Service

- (1) The following procedure shall be adhered to by a department, a council and an agency in instituting disciplinary action against an officer who has committed a misconduct:
  - (a) a verbal warning may be issued for a first minor offence and shall be preceded by counseling and constructive action taken to correct the conduct or behavior of the officer;
  - (b) a written warning may be issued if the supervisor is still not satisfied with the officer's behavior or conduct after a verbal warning has been issued, or if the officer commits another misconduct;
  - (c) a final written warning may be issued if previous warnings have had no effect or if the misconduct is of a serious nature;
  - (e) a dismissal may be considered appropriate under the following circumstances, among others:
    - (i) where other forms of discipline have been applied to the officer, but the officer does not correct his or her behavior;
    - (ii) where the officer has already received a final warning and then commits a similar offence and no other disciplinary sanction appears to be appropriate;
    - (iii) where the misconduct is of a serious nature.

*[Please note: numbering as in original.]*
- (2) Where the Director General is the complainant in a disciplinary inquiry or respondent in a grievance hearing, the Principal Secretary shall chair the proceedings and if the Principal Secretary is unable to chair the proceedings due to the exigencies of his or her work, he or she shall nominate a senior officer to chair the inquiry or hearing.

## 103. Active participation in politics

- (1) An officer shall not be an active member of a political party nor speak in public on any political party or matter, or take an active part in the support of any candidate in an election, and do anything by word or deed which is calculated to further political interest of any political party.
- (2) The following acts, in relation to an officer are, among others, acts which constitute active participation in politics:
  - (a) canvassing any person in support of or otherwise actively assisting an organization or movement of a political character;
  - (b) displaying or wearing symbols, rosettes, posters, placards or like articles having a political significance;
  - (c) chanting or singing at a political rally or meeting;
  - (d) publishing views of a political character or causing them to be in speeches, broadcasts, letters to the press, articles, leaflets, posters, placards, books or otherwise; and
  - (e) any other act or conduct whatsoever of an officer of which the public may reasonably be induced to associate or identify the officer with an organization or movement of a political character.
- (3) An officer who wishes to stand for general elections for the National Assembly or Local Government as a candidate shall resign or retire from the Service by giving a written notice at least one month prior to the nomination day for general elections in accordance with the National Assembly Election Act 1992<sup>2</sup> or any other law replacing it in that behalf

- (4) An officer who resigns in terms of subregulation (3) may be considered for re-appointment in the Service, upon making an application to the relevant appointing authority in accordance with the Act and these regulations.

## 104. Codes

The Codes set out in the Schedule shall be adhered to in the management of the Service.

### Schedule (Regulation 104)

#### Codes

These Codes are made in terms of section 25 of the Local Government Service Act 2008.

#### Part I – Code of conduct

##### 1 Preamble

- (1) The Government of Lesotho acknowledges that the ends sought by the public services of Lesotho are the development of the country and well being of its citizens, and that these ends can be achieved through diligence, perseverance and dedication of a disciplined corps of officers who are instrumental in carrying out government policies. Each officer in accepting an appointment to the Local Government Service of Lesotho accepts personal responsibility for developing and exhibiting a strong work ethic and affirms his or her commitment to combating negative work habits in the Local Government Service of Lesotho.
- (2) This Code of Conduct (hereinafter referred to as "Code") is made in the conviction that employment in the Local Government Service places an officer under a moral obligation to work conscientiously to earn his or her living and look upon his or her work as a contribution to making the economy of Lesotho strong and healthy.
- (3) This Code shall be viewed primarily as a guide to officers in their relationships and dealings with their employer, councils, agencies and the general public.
- (4) The Code provides guidance on the standards of behaviour required of officers.
- (5) All officers are therefore urged to adhere and comply with this Code in order to create a conducive working environment for the betterment of the society as a whole.

##### 2. Interpretation

This Code supplements, and should therefore be read as one with, the Local Government service Act 2008 and the regulations made under it.

##### 3. Conduct of officers

- (1) An officer shall—
  - (a) at all times have absolute and undivided loyalty to the Constitution and the lawfully constituted Government;
  - (b) support and maintain the Government of Lesotho according to the Constitution and other laws of Lesotho;
  - (c) serve the people of Lesotho with respect and promote their welfare and lawful interests;
  - (d) strive to excel in all his or her endeavours by being an example to others;

- (e) perform all duties and exercise all powers that have been assigned by a proper authority to his or her office, or that are appropriate at the material time to the grade, designation or classification of that office, diligently and impartially and to the best of his or her ability;
  - (f) in relation to his or her official duties, account for and make prompt or true return of, any money or property for which he or she is responsible;
  - (g) place all of his or her time at the disposal of Government;
  - (h) when required in the course of his or her duty to perform a service of which, if performed otherwise than in the Local Government Service, a charge would lawfully be payable and he or she shall report the fact to the Minister, who shall, with the approval of the Minister responsible for finance decide what amount should be charged or paid for that service, and the amount shall be paid into the Consolidated Fund or into such other fund as may be determined by the Minister in consultation with the Minister responsible for finance;
  - (i) disclose to the proper authority any misconduct, the commission of which he or she knows or ought to have known;
  - (j) disclose to the proper authority his or her direct or indirect financial interest (including loans and shares) in any undertaking;
  - (k) show courtesy and decency in his or her communication about any person or matter that is under consideration or forms the subject of comment or response;
  - (l) refrain from use of insulting or intimidating words to the authority, fellow officer or members of the public or from showing disrespect to any of them;
  - (m) wear official identity tags at all times during office hours;
  - (n) when on official duty, dress and behave in a manner that enhances the reputation of the Local Government Service; and
  - (o) accept the responsibility to avail himself or herself of ongoing training and self development throughout his or her career.
- (2) An officer shall not—
- (a) become pecuniary embarrassed from any cause, and shall not be subjected to any disciplinary action if he or she shows that, his or her pecuniary embarrassment has not been occasioned by imprudence or reprehensible cause and that the faithful performance of his or her duty has not been affected;
  - (b) absent himself or herself from his or her official duties during office hours without leave nor be late for duty without a valid excuse, the validity of which shall be determined by the immediate supervisor, head of department or chief executive officer;
  - (c) without the approval of the Minister, undertake remunerative or unpaid work outside his or her official duties or use office equipment or other resources for such work;
  - (d) use official property, premises and time for personal and private purposes unless authorized to do so;
  - (e) unless authorised by law or the terms of appointment or by the Minister, accept any fee, reward or remuneration of any kind beyond his or her emoluments for the performance of any service of the Government;
  - (f) by any act or omission willfully fail to comply with, or willfully disregard, any provision of a law or any lawful instruction given by any a lawful authority;
  - (g) knowingly make any false, misleading or inaccurate statement, either orally or in any official document or book, or sign any such document, or destroy any document or book whether electronically stored or otherwise or alter or erase any entry with intent to deceive;

- (h) whether before or after becoming an officer, willfully supply incorrect or misleading information in connection with his or her personal details;
  - (i) directly or indirectly reveal or use for private purposes, any information coming to his knowledge or acquired by him or her either in the course of his or her duties or in his or her capacity as an officer, otherwise than in proper discharge of his or her duties or as authorized by law or a competent authority;
  - (j) comply with an instruction which is unlawful, improper, unethical or in breach of the Constitution or inconsistent with the Local Government Service Act or any other law or which may involve a possible maladministration and in such circumstances, the officer shall report the matter in writing to an officer senior to the one giving the instruction;
  - (k) maliciously or destructively criticize the work or conduct of another officer;
  - (l) be an active member of a political party nor speak in public on any political party or matter or take an active part in the support of any candidate in an election, and do anything by word or deed which is calculated to further the party political interests of any political party;
  - (m) use illegal drugs and substances or abuse any other intoxicating substances, and shall not be found drunk at the workplace and habitual drunkenness or addiction to drugs shall be viewed as damaging to the interest and the image of the Local Government Service;
  - (n) commit a criminal offence and, in particular, an offence involving dishonesty, misappropriation of public funds or cause damage to public property or bring Local Government Service into disrepute;
  - (o) give or receive valuable presents whether in the form of money, goods or other personal benefits for services rendered except to the extent that he or she is specially permitted to do so by the head of department;
  - (p) exploit his or her relationship with another officer or persons to gain advantage of him or her sexually or confer undue favour on him or her, for sexual acts or malpractices anywhere;
  - (q) during working hours, engage in behaviour or conduct that disrupts or interferes with the work of other officers;
  - (r) write or circulate anonymous or vexatious letters or statements with malicious intent;
  - (s) engage in, or encourage the practice of—
    - (i) habitual lateness to work and meetings;
    - (ii) irregular attendance to work;
    - (iii) using the weather, poor transportation and domestic problems as an excuse for lateness and irregular attendance;
    - (iv) sleeping during scheduled working hours;
    - (v) trading, selling or transacting private financial business on work premises;
    - (vi) engaging in long private conversation with colleagues and eating in office during official working hours, and
    - (vii) disregarding deadlines and target dates agreed upon with his or her immediate supervisor, and using delay tactics and red tape as an excuse for non responsiveness.
- (3) Nothing in this paragraph shall be construed as preventing an officer from becoming a member or shareholder of a company or society of persons registered under any law.

#### 4. **Health and welfare**

- (1) Smoking in Government premises is prohibited and an officer shall only smoke in those areas that may be designated as smoking areas.
- (2) An officer shall not maliciously expose other officers, colleagues and members of the public to infectious diseases or danger at the workplace.

#### 5. **Sanctions**

An officer who fails to comply with a standard of conduct in this Code shall be subjected to disciplinary action in accordance with the provisions of a Disciplinary Code made in Part III.

## **Part II – Grievance Code**

### **I – General**

#### 1. **Preamble**

Inherent in the employment relationship is conflict of interests. It is for this reason that the Government of Lesotho is committed to establish a clearly defined grievance code in order to manage conflict within the Local Government Service.

#### 2. **Definition**

In this Code—

"**grievance**" means a feeling of dissatisfaction or injustice which an officer encounters in the workplace and is formally brought to the attention of the employer.

#### 3. **Objectives**

The objectives of this Code are to—

- (a) settle a grievance as early, and at the lowest level of supervision or management, as possible;
- (b) create an opportunity and atmosphere for officers to raise their complaints or dissatisfaction without fear;
- (c) create an opportunity for the employer to handle officers grievances fairly and effectively.

#### 4. **Principles**

The following are the guiding principles which shall be adhered to in handling a grievance under this Code—

- (a) an officer shall have a fair hearing;
- (b) the rules of natural justice shall apply.

## **II – Grievance procedure**

#### 5. **Stages in procedure**

The main stages through which a grievance shall be raised are set out in this Division.

#### 6. **Stage 1: Informal grievance**

- (1) An aggrieved officer shall raise his or her grievance with his or her immediate supervisor.
- (2) The immediate supervisor shall informally resolve the grievance within a reasonable time and not exceeding 48 hours or 2 working days.

- (3) If the grievance is not resolved, the aggrieved officer shall request a formal hearing to be instituted by making an application on the appropriate grievance form.
- (4) The grievance form shall be submitted to the head of section or department within 5 working days after the informal grievance hearing.

**7. Stage 2: Formal grievance hearing**

- (1) On receipt of the grievance form, the head of section shall arrange for a hearing within 5 working days of receipt.
- (2) The following persons shall attend a formal grievance hearing—
  - (a) the officers' sectional head as the chairperson;
  - (b) the officers' immediate supervisor;
  - (c) the officer as the complainant;
  - (d) the officers' representative (a colleague at his or her department, council or agency);
  - (e) witnesses, if any;
  - (f) a representative from the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing.
- (3) The aggrieved officer and the respondent shall have a right of representation during a grievance hearing but the right to representation shall not include legal representation.
- (4) The aggrieved officer, supervisor and respondent have the right to cross examine.
- (5) If still dissatisfied with the decision reached at the hearing, the aggrieved officer has the right to appeal to the Head of the Department or Chief Executive Officer and shall file the appeal within 5 working days from the date the decision was made.

**8. Stage 3: Appeal hearing**

- (1) On receipt of the appeal from the aggrieved officer, the Head of the Department shall arrange for the appeal to be heard within 5 working days from the date he or she received the appeal.
- (2) The following persons shall attend an appeal hearing—
  - (a) the Head of Department or Chief Executive Officer who shall be the chairman;
  - (b) the officer's immediate supervisor;
  - (c) the appellant;
  - (d) the officers' representative (a colleague at his or her department or council or agency);
  - (e) witnesses, if any; and
  - (f) a representative from the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing.
- (3) The appellant and the respondent shall have a right of representation during the appeal hearing, but the representation shall not include the legal representation.
- (4) The appellant and the respondent shall have the right to cross examine.
- (5) If the officer is not satisfied with the decision of the appeal hearing and wishes to pursue the matter he or she may declare a dispute and shall within five (5) working days from the date the decision was made, refer the matter to the Conciliation Board or arbitration depending on the nature of the dispute.



## Part III – Disciplinary Code

### I – General principles

#### 1. Preamble

The Government of Lesotho is committed to maintain a disciplined Local Government Service.

#### 2. Definition

In this Code, unless the context otherwise requires—

**"disciplinary action"** means a formal or informal action taken by management against an officer who fails to conform to the rules and regulations governing Local Government Officers and has committed misconduct.

#### 3. Objectives

The main objectives of this Code are to—

- (a) correct any unacceptable behaviour by an officer and not necessarily to punish the public officer;
- (b) deal with the matter as quickly and at the lowest level of management as possible; and
- (c) ensure consistency and effectiveness in the application of discipline within the Local Government Service.

#### 4. Principles

- (1) The following are guiding principles which shall be adhered to in handling a disciplinary matter under this Code—
  - (a) an officer shall have a fair hearing;
  - (b) the rules of natural justice shall apply;
  - (c) notwithstanding subparagraphs (a) and (b), where circumstances warrant, a disciplinary action may be instituted in the absence of an officer if there is evidence to the supervisor's attempts to locate the officer in vain;
  - (d) the Head of Section, Department or Council in determining the appropriate sanction shall take into consideration the mitigating factors of the case;
  - (e) the sanction shall be commensurate with the nature of the offence that has been committed;
  - (f) the sanction shall as far as possible, be fair and consistent with disciplinary action previously taken in other similar circumstances.

### II – Disciplinary procedure

#### 5. Stages in disciplinary action

An officer who commits a breach of discipline is liable to disciplinary action, the procedure of which shall be in stages set out in this Division.

#### 6. Stage 1: Verbal warning

- (1) Where an officer commits a misconduct of a minor nature or it is for the first time, the officer's immediate supervisor shall—
  - (a) identify the problem and cause;

- (b) work out a solution to the problem;
  - (c) ensure that the officer knows what is expected of him or her;
  - (d) warn the officer verbally of the possible action that may be taken against him or her, for example, a misconduct charge in case of a repeated misconduct;
- (2) The verbal warning shall not be recorded in the officer's personal file.
7. **Stage 2: Written warning**
- (1) If the supervisor considers a misconduct to be of a serious nature or a repeated misconduct, the warning shall be reduced to writing, but before a written warning is issued, the steps in paragraph 6(1)(a), (b),(c) and shall be observed.
  - (2) The supervisor shall cause the officer to sign the written warning.
  - (3) Failure to sign the written warning shall not invalidate the warning.
  - (4) The written warning shall be recorded in the officer's file and is valid for a period of six months from the date of issue.
  - (5) Notwithstanding subparagraph (4), an invalid written warning shall be used as supporting evidence in mitigation.
8. **Stage 3: Disciplinary inquiry**
- (1) If an officer commits a misconduct after being issued a written warning, or commits a misconduct that warrants a disciplinary inquiry, the supervisor shall—
    - (a) arrange for a disciplinary inquiry to be conducted;
    - (b) give the officer adequate notice of at least 48 hours or working days before a disciplinary inquiry is held;
    - (c) allow the officer to have a representative who shall be a colleague within the officer's department or council.
  - (2) The right to representation under this Division does not include the right to a legal practitioner.
  - (3) The following persons shall attend a disciplinary inquiry—
    - (a) the officer's Head of department or Chief Executive Officer who shall be the chairperson;
    - (b) the officer's immediate supervisor (complainant);
    - (c) the officer (defendant);
    - (d) the representative of the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing;
    - (e) the officer's representative (a colleague at his or her department or council); and
    - (f) witnesses, if any.
  - (4) The officer and his or her representative have a right to cross examine.
  - (5) At the end of the inquiry the Head of department or Chief Executive Officer shall decide on a penalty which may be—
    - (a) a final written warning, which shall be signed by the officer, and be recorded in his or her file and is valid for a period of twelve months from the date of issue;
    - (b) any other sanction that may be reasonable in the circumstances.

- (6) Where dismissal of a public officer is being contemplated, the Head of Department or Chief Executive Officer shall recommend such dismissal to the Principal Secretary who shall after adequate investigation confirm the dismissal.
9. **Stage 4: Appeal hearing**
- (1) If the officer is dissatisfied with the decision reached at the disciplinary inquiry, he or she shall file an appeal with the Head of Department or Chief Executive officer within 5 working days from the date on which the decision was made.
- (2) On receipt of the appeal, the Head of the Department or Chief Executive officer shall arrange for the appeal to be heard within 5 working days of the receipt.
- (3) The following people shall attend the appeal hearing—
- (a) the Director General or Principal Secretary who shall be the chairperson;
  - (b) appellant;
  - (c) respondent (supervisor);
  - (d) the officer's Head of department or Chief Executive Officer;
  - (e) a public officer's representative (a colleague at his or her department or Council);
  - (f) the representative of the Human Resources Department who shall be the secretary and advisor on policy issues at the hearing; and
  - (g) witnesses, if any.
- (4) The right to representation under this Part does not include the right to be represented by a legal practitioner.
- (5) The officer and supervisor shall have the right to cross examine.
- (6) If the officer is not satisfied with the decision of the appeal hearing and wishes to pursue the matter, he or she may declare a dispute and shall, within 5 working days refer the dispute to the Conciliation Board or Arbitration depending on the nature of the matter.
- (7) Once a dispute has been declared, it shall be dealt with in accordance with the Code on Dispute Resolution issued under section 25(1)(a)(v) of the Local Government Service Act 2008.

## Part V – Code on dispute resolution

### 1. Preamble

It is the Government policy that disputes be resolved as soon as possible and amicably through mediation, arbitration, and conciliation so as to avoid protracted labour conflicts at the work place.

### 2. Definitions

In this Code—

"**Act**" means the Local Government Service Act of 2008;

"**dispute of interest**" means a dispute over employment matters to which an officer or employer does not have an established right;

"**dispute of right**" means a dispute arising from a breach or contravention of a law or a contract of employment.

**3. Procedure for conciliation or arbitration**

- (1) Disputes of interest shall be referred to the Conciliation Board established under section 27 of the Act in the following manner—
  - (a) any party to a dispute may, in writing, refer the matter to the Conciliation Board;
  - (b) the party who refers the dispute shall satisfy the Conciliation Board that copy of the referral has been served on all the other parties to the dispute;
  - (c) on receipt of the referral the Conciliation Board shall notify the parties of the date, time and place of the meeting and attempt to resolve the dispute through conciliation within 30 days of receipt of the referral;
  - (d) the Conciliation Board shall after hearing the dispute, issue a certificate as to whether the issue has been resolved or remains unresolved;
  - (e) if the dispute remains unresolved the matter shall be referred for arbitration or the Tribunal, established under section 30 of the Act for a final determination.
- (2) The decision of the arbitration or Tribunal shall be final subject to review by the courts of law.
- (3) Disputes of rights and those involving essential services shall, subject to section 28 of the Act, be referred for arbitration in the following manner—
  - (a) the parties shall, in writing, agree on the arbitrator;
  - (b) the party who refers the dispute shall satisfy the arbitrator that the copy of the referral has been served on the other parties to the dispute;
  - (c) the arbitrator shall notify the parties of the date, time, place, of the meeting and resolve the dispute by arbitration within 30 days of receipt of the referral.
- (4) The decision of the arbitration shall be final subject to review by the courts of law.
- (5) Where a dispute is referred to the Tribunal or for arbitration, a party to the dispute may be represented by a legal practitioner.