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ACT NO. 1 OF 1996

FIRST AMENDMENT TO THE CONSTITUTION ACT 1996

An Act to amend the Constitution of Lesotho.

Enacted by the Parliament of Lesotho.

Short title

This Act may be cited as the First Amendment to the Constitution 1996

Repeal and replacement of section 145 of the Constitution of Lesotho

2. Section 145 of the Constitution of Lesotho, hereinafter referred to as the “Constitution” is repealed and the following section substituted -

“Defence Force

145. (1) There shall be a Defence Force for the defence of Lesotho.

(2) The Prime Minister shall have power to determine the operational use of the Defence Force.

(3) Subject to the provisions of subsection (2) and any Act of Parliament, the command of the Defence Force shall be vested in the Commander of the Defence Force.

(4) The power to appoint a person to hold or act in the office of the Commander of the Defence Force and the power to remove him from that office shall vest in the King, acting on the advice of the Prime Minister, as may be prescribed by an Act of Parliament.

(5) The person holding the office of the Commander of the Defence Force on the day immediately preceding the date of coming into operation of this Act shall, as from that date, continue to hold such office, under the same terms and conditions, as if he had been appointed to do so in accordance with the provisions of this Act:

Provided that any person who under any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

(6) An Act of Parliament shall make provision for the organisation, administration and discipline of the Defence Force including the appointment of

persons to offices or ranks in the Defence Force, the removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service.”

Repeal and replacement of section 146 of the Constitution

3. Section 146 of the Constitution is repealed and the following substituted -

“Courts-Martial Appeal Court

146. (1) There shall be a Courts-Martial Appeal Court which shall have such jurisdiction and powers as may be conferred on it by any other law.

(2) The members of the Courts-Martial Appeal Court shall consist of-

(a) the President who shall be a judge;

(b) a judge; and

(c) a retired army officer with legal experience.

(3) The Courts-Martial Appeal Court shall be a superior court of record.

(4) The power of appointing persons to the Court-Martial Appeal Court shall vest in the Prime Minister acting in consultation with the Chief Justice.”

Repeal and replacement of section 147 of the Constitution

4. Section 147 of the Constitution is repealed and the following section substituted -

“Police Force

147. (1) There shall be a Police Force for Lesotho that shall be responsible for the maintenance of law and order in Lesotho.

(2) The command of the Police Force shall be vested in the Commissioner of Police and, subject to any direction of the Minister, the Commissioner shall be responsible for the administration and discipline of the Police Force.

(3) The power to appoint a person to hold or act in the office of the Commissioner of Police and the power to remove him from that office shall

vest in the King, acting on the advice of the Prime Minister, as may be prescribed by an Act of Parliament.

(4) The person holding the office of the Commissioner of Police on the day immediately preceding the date of coming into operation of this Act shall, as from that date, continue to hold such office, under the same terms and conditions, as if he had been appointed to do so in accordance with the provisions of this Act:

Provided that any person who under any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

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

Repeal and replacement of section 149 of the Constitution

5. Section 149 of the Constitution is repealed and the following section substituted -

“Prison Service

149. (1) There shall be a Prison Service that shall be responsible for the administration of prisons in Lesotho.

(2) The superintendence of the Prison Service shall be vested in the Director of Prisons and, subject to any direction of the Minister, the Director of Prisons shall be responsible for the administration and discipline of the Prison Service.

(3) The power to appoint a person to hold or act in the office of the Director of Prisons and the power to remove him from that office shall vest in the Prime Minister, as may be prescribed by an Act of Parliament.

(4) The person holding the office of the Director of Prisons on the day immediately preceding the date of coming into operation of this Act shall, as from that date, continue to hold such office, under the same terms and conditions, as if he had been appointed to do so in accordance with the provisions of this Act:

Provided that any person who under any existing law would have been required to vacate his office at the expiration of any period shall vacate his office at the expiration of that period.

(5) An Act of Parliament shall make provision for the organisation, administration and discipline of the Prison Service including the appointment of persons to offices or ranks

in the Prison Service, the removal from office or reduction in rank, their punishment for breaches of discipline and the fixing of their conditions of service”.