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No.

ACT



4 . Fourth Amendment to the Constitution Act 2001179

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FOURTH AMENDMENT TO THE CONSTITUTION ACT, 2001**Act No. 4 of 2001**

An Act to amend the Constitution to establish a mixed member proportional 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 general elections.

ENACTED BY THE PARLIAMENT OF LESOTHO.**Short title and commencement**

1. (1) This Act may be cited as the Fourth Amendment to the Constitution Act, 2001.

(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.

Composition of National Assembly

2. Section 56 of the Constitution is deleted and substituted with the following section -

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

Elections to National Assembly

3. 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 in

terms of a mixed member proportional electoral system that -

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

Independent Electoral Commission

4. Section 66 of the Constitution is amended-

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

“(1) There shall continue to be an Independent Electoral Commission consisting of a chairman and two members, who shall be appointed by the King acting in accordance with the advice of the Council of State.

- (2) A person to be appointed as a member shall be of a high moral character and proven integrity and should either qualify to hold a high judicial

office or should possess considerable experience and demonstrated competence in the administration of public affairs.

- (3) In its advice to the King under subsection (1), the Council of State shall submit to him the names of three persons selected from a list of not less than five names.
 - (4) For the purpose of enabling the Council of State to select the names of persons to be submitted to the King under subsection (3), the Council shall request all registered political parties in accordance with a procedure agreed by them to jointly propose to the Council, within a period of thirty days from the date specified by the Council, a list of not less than five names.”; and
- (b) in subsection (7) by deleting the word “six” wherever it appears and substituting the word “three”.

Powers, duties and functions of the Electoral Commission

5. Section 66A is amended -

- (a) by deleting subsection (2) and substituting the following -

“(2) In order to discharge the duties and functions referred to in subsection (1), the Electoral Commission may-

- (a) employ staff on terms and conditions of employment determined by it after consultation with the Public Service Commission;

- (b) take into employment public officers seconded to it in terms of subsection (3).”;
- (b) by inserting the following new subsection (3) after subsection (2) -
 - “ (3) The Minister responsible for the Public Service shall, when requested by the Electoral Commission, make available to the Commission any public officer of any authority of the Government for the purpose of the discharge of its functions, and the appointment, exercise of disciplinary control or removal of any public officer in relation to the performance of his electoral functions shall be vested in the Commission.”.

Delimitation of Constituencies

- 6. Section 67 of the Constitution is amended-
 - (a) by deleting subsection (1) and substituting the following -
 - “(1) For the purpose of elections to the National Assembly Lesotho shall, in accordance with the provisions of this section, be divided into eighty constituencies by an order made by the Electoral Commission.”; and
 - (b) in subsections (2), (5) and (6) by deleting “twenty-one” and substituting “eighteen”.

Quorum in the House of Parliament

- 7. Section 74 of the Constitution is amended by deleting subsection (2)

and substituting the following -

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